

No. 22-7062

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

MAR 11 2023

OFFICE OF THE CLERK

RICARDO NOBLE — PETITIONER
(Your Name)

vs.

JOHN WETZEL, et. al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. COURT OF APPEALS FOR THIRD CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

RICARDO NOBLE

(Your Name)

BX 9351

S.C.I. Houtzdale • P.O. Box 1000

(Address)

Houtzdale, PA 16698

(City, State, Zip Code)

(Phone Number)

DATE: 03/11/2023

QUESTIONS PRESENTED

It's unconstitutional for judges and prison staff to allow their personal prejudices to interfere with their ability to do their job. Liteky v. U.S., 1147(1994); Cruz v. Beto, 405 U.S. 319(1972).

1. The court erred/abused discretion by ignoring law and fact that defendants stated that S.C.I.-Greene treats NGE(50%) as a STG because Pennsylvania D.O.C. classifies the NGE(50%) as a STG, despite fact that Head of PA, D.O.C. stated in Interrogatories/Pleadings that the PA, D.O.C. never classified the NGE(50%) as a STG.

2. The court erred/abused discretion by ignoring law and fact that defendants admitted, and petitioner's exhibits verified, that S.C.I.-Greene defendants and other S.C.I.-Greene staff, without authority or basis, and in violation of PA, D.O.C. policy, classified/treated NGE(50%) as a gang and STG and petitioner as a STG member because he is NGE(50%).

3. The court erred/abused discretion by ignoring law and fact defendants admit, and petitioner's exhibits verify that no S.C.I.-Greene defendant or other S.C.I.-Greene staff had authority or basis to classify petitioner as a STG member or NGE(50%) as a STG.

4. The court erred/abused discretion by falsely claiming petitioner was not classified as a STG member because he is NGE(50%), despite fact that defendants admitted, and petitioner's exhibits verified, that it was because petitioner is NGE(50%).

5. The court erred/abused discretion by claiming as "immaterial" the court using "Department of corrections(D.O.C.)" and "S.C.I.-Greene" interchangeably as if they are the same, despite petitioner's clear distinction between S.C.I.-Greene defendants' and other S.C.I.-Greene staff's retaliatory, baseless, and unauthorized practices,

policies, and regulations regarding the NGE (506)
and Pennsylvania Department of Corrections's
Policies, Practices, and regulations regarding such,

6. The court erred/abused discretion by
ignoring law and fact that defendants Admitted,
and petitioner's exhibits verified, that S.C.T. Greene
superintendant admitted that there was no evidence
of STG Criteria (Activity) in Petitioner's Background,
which included the alleged incidents S.C.T. Greene
defendants falsely claim are gang or STG Activity.
Therefore, petitioner was never placed in the
Security Threat Group (STGMW) Program.

7. The court erred/abused discretion by affirming
District court's orders granting summary judgment on
and dismissing petitioner's First Amendment of
U.S. Constitution Free Exercise of Religion claim,
despite ample evidence supporting petitioner's claim.

8. The court erred/abused discretion by affirming
District court's granting summary judgment on
and dismissing petitioner's RLUIPA claim.

9. The court erred/abused discretion by affirming
District court orders granting summary judgment on
and dismissing petitioner's Eighth Amendment Conditions
of Confinement claim.

10. The court erred/abused discretion by affirming
District court's orders ~~granting~~ summary judgment on
and dismissing petitioner's conspiracy claim.

11. The court erred/abused discretion by affirming
District court's order dismissing petitioner's Equal
Protection claim.

12. The court erred/abused discretion by affirming
District court's order dismissing petitioner's Due Process
of ~~F~~ourteenth Amendment of U.S. Constitution
Claims.

13. The court erred/abused discretion by affirming
District court's order granting defendants' extremely
untimely, baseless, and overreaching Motion To strike all
paragraphs containing evidentiary facts, Background and
historical material related to all claims and defendants
in petitioner's Amended complaint.

14. The court erred/abused discretion by affirming District court's order dismissing claims against defendants John Wetzel, Robert Gilmore, and Steve Longstreth for supervisor liability and their personal involvement.

15. The court erred/abused discretion by affirming District court order dismissing claims against defendants in their official capacity.

16. The court erred/abused discretion by affirming District court's order dismissing as untimely all claims and defendants Maria Balestrieri, Seth Erickson, and Michael Stella concerning the retaliatory, unauthorized, baseless, and false Security Threat Group ("STG") classification of the Nation of Gods and Earths ("NGE"), commonly called "The 5%", and petitioner arising out of defendants' conduct and documents related to such which pre-date 08/31/2016, despite fact that said false STG classification, defendants' conduct, documents, injuries and their cause weren't revealed to ~~petitioner~~ until 01/25/2018. Then, injured petitioner petitioner again on 01/29/2018 and continues to injure petitioner.

17. The court erred/abused discretion by affirming District court's decision to make credibility determinations and otherwise resolve disputed factual issues in deciding defendants' Motion for summary judgment.

18. The court erred/abused discretion by affirming District court's decision to ignore/overlook Pennsylvania's Fraudulent concealment Doctrine, continuing violations Doctrine and tolling of statute of limitations while prisoner petitioner exhausts administrative remedies.

19. The court erred/abused discretion by affirming District court's decision to ignore law and fact that defendants admitted, and petitioner's exhibits (interrogatories, admissions, etc.) verified, that S.C.I. Greene defendants' and other S.C.I. Greene staff's false, baseless, and unauthorized STG classification of NGE(s) and petitioner was a significant motivating factor in placing/keeping petitioner on RRL and solitary confinement for excessive amounts of time in past and present.

20. The court erred/abused discretion by affirming District Court's decision to ignore the hundreds of pages of petitioner's Exhibits (Verified declarations, Affidavits, interrogatories, Admissions, etc.) supporting his claims

38

21. The court erred/abused discretion by not addressing or responding to issues Number 8, 12, 13, 14, 15, 16, 17, 18, 19, 20, and 21 in petitioner's Brief in support of Appeal

39

LIST OF PARTIES

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

☒ 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) JOHN WETZEL, Secretary of Pennsylvania D.O.C.,
- 2) ROBERT GILMORE, S.C.I. Greene Superintendent,
- 3) MARIA BALESTRIERI, S.C.I. Greene prison counselor,
- 4) STEVE LONGSTRETH, S.C.I. Greene unit manager and counselor,
- 5) MICHAEL STELLA, S.C.I. Greene prison counselor
- 6) SETH ERICKSON, S.C.I. Greene prison counselor

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	10
CONCLUSION.....	39

INDEX TO APPENDICES

APPENDIX A	(a) <u>Noble v. Wetzel</u> , 2022 U.S. App. Lexis 30676 (3d Cir. 11/04/2022) (22-1328) (Memorandum order)
APPENDIX B	(a) <u>Noble v. Wetzel</u> , 2021 U.S. Dist. Lexis 24501 (W.D. Pa. 12/23/2021) (Memorandum order) (b) 11/04/2022 order (b) 12/23/2021 order (OCDE #224)
APPENDIX C	- <u>Noble v. Wetzel</u> , 2022 U.S. Dist. Lexis 35094 (W.D. Pa. 01/24/2022)
APPENDIX D	- 11/16/2021 Magistrate Report/Recommendation (<u>Noble v. Wetzel</u> , 2:18-cv-01160 (W.D. Pa. 2021))
APPENDIX E	- 05/11/2020 U.S. Magistrate Report/Recommendation
APPENDIX F	- 06/15/2020 - Memorandum order of District Judge
APPENDIX G	- 08/01/2019 - U.S. Magistrate Report/Recommendation
APPENDIX H	- 09/10/2019 - District Judge order
APPENDIX I	- 02/23/2021 - U.S. Magistrate order
APPENDIX J	- 05/10/2021 - District Judge order
APPENDIX K	- 12/29/2022 - 3 rd Circuit Court order denying Rehearing (<u>Noble v. Wetzel</u> , 22-1328)

TABLE OF AUTHORITIES CITED

PAGE

<u>Adickes v. S.H. Kress & Co.</u> , 398 U.S. 144 (1970)	28, 29
<u>Allah v. Bartowski</u> , 574 Fed. Appx. 135 (3d Cir. 2014)	22
<u>Ammlung v. City of Chester</u> , 494 F.2d 811 (3d Cir. 1974)	29
<u>Anderson v. City of Bessemer, NC</u> , 470 U.S. 564 (1985)	11, 12, 13, 14, 38
<u>Anderson v. Liberty Lobby, Inc.</u> , 477 U.S. 242 (1986)	15, 24, 36, 38
<u>Atkinson v. Taylor</u> , 316 F.3d 257 (3d Cir. 2003)	33
<u>Bowen v. Ryan</u> , 248 F. App'x. 302 (3d Cir. 2007)	37
<u>Castro v. Glunt</u> , 2016 U.S. Dist. Lexis 145612 (W.D. Pa. 2016)	13
<u>Celotex Corp. v. Catrett</u> , 477 U.S. 317 (1985)	15, 38
<u>Collex v. Walsh</u> , 74 F.R.D. 443 (E.D. Pa. 1977)	39
<u>Com. v. Noble</u> , 318-1992	4
<u>Com. v. Noble</u> , 56 CA2004 (Huntingdon County)	26
<u>Cowell v. Palmer Twp.</u> , 263 F.3d 286 (3d Cir. 2001)	22, 36, 37
<u>Cruz v. Beto</u> , 405 U.S. 319 (1992)	15, 29
<u>Diaz v. Palakovich</u> , 448 Fed. Appx. 211 (3d Cir. (Pa.) 2010)	33
<u>Dice v. Johnson</u> , 711 F. Supp. 2d 340 (M.D. Pa. 2010)	29
<u>Farmer v. Brennan</u> , 511 U.S. 825 (1994)	23
<u>Fraise v. Terhune</u> , 283 F.3d 506 (3d Cir. (N.J.) 2002)	13, 16, 30
<u>Haines v. Kerner</u> , 404 U.S. 519 (1972)	15
<u>Hill v. Sciarrotta</u> , 140 F.3d 210 (2d Cir. 1998)	18
<u>Johnson v. Wetzel</u> , 2016 WL 5118149 (W.D. Pa. 2016)	23, 30, 34
<u>Joye Williams v. Beard</u> , 482 F.3d 637 (3d Cir. 2007)	26
<u>Liteky v. U.S.</u> , 114 S.Ct. 1147 (1994)	30, 38
<u>Marino v. Indus. Crating Co.</u> , 358 F.3d 241 (3d Cir. 2004)	24
<u>Marrin v. Broadus</u> , 2003 U.S. Dist. Lexis 13329 (S.D. N.Y. 2003)	15, 17, 20, 30
<u>McMillan v. Wetzel</u> , 790 Fed. Appx. 455 (3d Cir. 2010)	24, 36
<u>Meditz v. City of Newark</u> , 658 F.3d 364 (3d Cir. 2011)	32
<u>Memphis v. City of Memphis</u> , 361 F.3d 898 (6th Cir. 2004)	29
<u>Mest v. Cabot Co.</u> , 449 F.3d 506 (3d Cir. 2006)	19, 32, 36, 37

<u>Miller v. Alabama</u> , 132 S.Ct. 2455 (2012)	4
<u>Miller v. Group Voyager</u> , 912 F.Supp.164 (E.D.Pa.1998)	32
<u>Montgomery v. Louisiana</u> , 136 S.Ct. 758 (2016)	4
<u>Noble v. Wetzel</u> , 22-1328 (3rd Cir. 2022)	9
<u>Noble v. Wetzel</u> , 2:18-cv-01160 (W.D.Pa.2018)	6
<u>Noble v. Wetzel</u> , 2021 U.S. Dist. Lexis 245011 (W.D.Pa. 12/23/2021)	14
<u>Noble v. Wetzel</u> , 2022 U.S. Dist. Lexis 35094 (W.D.Pa. 01/24/2022)	14
<u>Noble v. Wetzel</u> , 2022 U.S. App. Lexis 30676 (3rd Cir. 11/04/2022)	14
<u>Paine v. Baker</u> , 545 F.2d 197 (4th Cir. 1979)	31
<u>Panayoti v. Annucci</u> , 898 F.Supp.2d 469 (N.D.N.Y. 2012)	17, 31
<u>Paraschos v. YBM Magnex Int'l, Inc.</u> , 2000 U.S. Dist. Lexis 2829 (E.D.Pa. 2000)	32
<u>Pearson v. Sec'y Dep't Corr.</u> , 775 F.3d 598 (3d Cir. 2014)	37
<u>Pennhurst State School and Hosp. v. Halderman</u> , 465 U.S. 89 (1984)	34
<u>Rausser v. Horn</u> , 241 F.3d 380 (3d Cir. (Pa.) 2002)	17, 22, 30
<u>Rhode v. Dellariprette</u> , 845 F.2d 1195 (3d Cir. 1988)	33
<u>Rowse v. Benson</u> , 193 F.3d 936 (8th Cir. 1999)	17
<u>Paul v. Davis</u> , 424 U.S. 693 (1986)	31
<u>Samerit v. City of Philadelphia</u> , 142 F.3d 582 (3d Cir. 1992)	18, 31, 32
<u>Shoatz v. Horn</u> , 213 F.3d 140 (3d Cir. 2000)	31
<u>Shoatz v. Wetzel</u> , 2:13-cv-00652 Document 87 (W.D.Pa. 2016)	23, 28, 30
<u>Sibron v. New York</u> , 382 U.S. 40 (1980)	18, 31
<u>Spruyette v. Hoffner</u> , 181 F.Supp.2d 736 (M.D.Mich. 2001)	17
<u>Talley v. Wetzel</u> , 2018 U.S. Dist. Lexis 68752 (M.D.Pa. 2018)	39
<u>Village of Willowbrook v. Olech</u> , 528 U.S. 562 (2007)	30
<u>West v. Phila. Elec. Co.</u> , 45 F.3d 774 (3d Cir. 1995)	19
<u>Wilkinson v. Austin</u> , 545 U.S. 209 (2005)	22, 30
<u>Will v. Mich. Dep't of State Police</u> , 491 U.S. 58 (1989)	34
<u>Wishkin v. Potter</u> , 476 F.3d 180 (3d Cir. 2007)	15
<u>Young v. Hawk</u> , 2016 U.S. Dist. Lexis 98152 (M.D.Pa. 2016)	31
<u>Washington v. Klem</u> , 947 F.3d 272 (3d Cir. (Pa.) 2002)	18, 20, 21, 24
42 U.S.C. 2000cc-1(a)	19
42 U.S.C. 2000cc-5(7)(A)	19
Fed. R. Civ. P. 56	15

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
Noble v. Wetzel, et al., 2022 U.S. App. Lexis 30676 (3d Cir. 1/04/2022).
☒ 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/C to the petition and is
(B) Noble v. Wetzel, et al., 2021 U.S. Dist. Lexis 245011 (W.D. Pa. 12/23/2021).
☒ reported at (C) Noble v. Wetzel, et al., 2022 U.S. Dist. Lexis 35094 (W.D. Pa. 01/24/2022); 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 11/04/2022.

☐ 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: 12/29/2022, and a copy of the order denying rehearing appears at Appendix K.

☐ 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

FIRST AMENDMENT OF U.S. CONSTITUTION: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or the press; or the right of the people to peaceably to assemble, and petition the Government for a redress of grievances."

FOURTH AMENDMENT OF U.S. CONSTITUTION: "The right of the people against unreasonable searches and seizures shall not be violated."

EIGHTH AMENDMENT OF U.S. CONSTITUTION: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

FOURTEENTH AMENDMENT OF U.S. CONSTITUTION:

"...nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws."

RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT (RLUIPA), 42 U.S.C. 2000cc-1(a),

"No government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution... even if the burden results from a rule of general applicability...."

Religious exercise is defined as "any exercise of religion, whether or not compelled by, or central to, a system of religious belief," 42 U.S.C. 2000cc-5(7)(A).

42 U.S.C. 1983: "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..."

STATEMENT OF THE CASE

AND NOW, comes petitioner, Ricardo Noble, a appellant, prose prisoner, who files this Petition For writ of Certiorari appealing Third circuit court of Appeals' December 29, 2022 final order, regarding petitioner's 42 U.S.C. 1983 lawsuit.

Petitioner is a sincere adherent of the Nation of Gods and Earths ("NGE"), commonly called, "The 5 %." The NGE(5%) is recognized, authorized, and accommodated as a religion by Pennsylvania ("PA") Department of Corrections ("D.O.C."). Petitioner has been a NGE(5%) for over 30 years. Petitioner is also what's termed a "Juvenile Lifer," since he was sentenced to mandatory Life Without Parole ("LWOP") at age 16 in 1992 for charges of Second Degree Murder, Robbery, and Conspiracy to robbery originating in 1991 (at age 15). Com. v. Ricardo Noble, 318-1992. In 2012, the U.S. Supreme Court ruled it's unconstitutional cruel/unusual punishment to sentence a juvenile to mandatory LWOP. Miller v. Alabama, 132 S.Ct. 2455 (2012). And, in 2016, U.S. Supreme Court ruled in Montgomery v. Louisiana, 136 S.Ct. 758, that Miller v. Alabama is retroactive. So, petitioner had to be resentenced. At said time, and all times relevant to petitioner's 42 U.S.C. 1983 lawsuit, petitioner was

incarcerated at State Correctional Institution ("S.C.I.") Greene. So, petitioner's S.C.I.-Greene prison counselor (defendant Seth Erickson ("Erickson")) had to compile a correct and up-to-date compilation of petitioner's prison file, called "Juvenile Lifer Information Packet" ("JLIP") (dated 07/28/2016), for sole purpose of petitioner's resentencing. A Juvenile Lifer's Resentencing and new sentence is based mainly, but not exclusively, on the juvenile Lifer's prison file (JLIP). Judgment in petitioner's favor REGARDING this lawsuit will not necessarily imply the invalidity of petitioner's sentence or conviction.

On 01/25/2018, petitioner received a copy of the 07/28/2016 JLIP attached as an exhibit to Re-sentencing prosecutor's 11/30/2017 "sentencing Memorandum" containing, among other things, a 02/26/2013 Integrated Case summary - Initial classification summary ("ICS") falsely classifying petitioner is a member of a security Threat Group ("STG") because he is NGE (5%). Despite fact that the P.A.D.O.C. never designated the NGE (5%) as a STG and no one at S.C.I.-Greene had authority or basis to designate the NGE (5%) or appellant (petitioner) as a STG, said 02/26/2013 ICS was done by petitioner's S.C.I.-Greene prison counselor (defendant Maria Balestrieri (Balestrieri)) at said time and was used against petitioner at and before his 01/29/2018 Resentencing and continued to be used

against petitioner by S.C.I.-Greene/PA.D.O.C. Staff.
The 07/28/2016 JLTP revealed that the defendants (Maria Balestrieri, John Wetzel, Seth Erickson, Michael Stella, Steve Longstreth, and Robert Gilmore) and other S.C.I.-Greene staff had been, for years before/up to petitioner's 01/29/2018 Resentencing, using the false/unauthorized STG classification to negatively influence petitioner's prison classification/custody level, increase petitioner's prison security risk level/status/restrictions, keep petitioner in solitary confinement for excessive/unreasonable amounts of time and to confiscate/ban NGE(50%) material (books, lessons, etc.). In 2021, the defendants stated they removed the ~~un~~authorized/false STG classification of petitioner and NGE(50%) from petitioner's prison file. According to PA.D.O.C. documents, prison staff in each prison, including S.C.I.-Greene, in PA.D.O.C. system began preparing Juvenile Lifers' prison files/program admissions in 2012, after the Miller v. Alabama decision, "so they would be prepared for a favorable decision from U.S. Supreme court in Montgomery v. Louisiana."

On 08/31/2018, petitioner filed this pro se 42 U.S.C. 1983 lawsuit (Ricardo Noble v. John Wetzel, 2:18-cv-01160) in the Western District of Pennsylvania court. On 09/10/2019, U.S. District Judge Marilyn J. Horan (Horan) filed

Order (attached Appendix - H) agreeing with
chief u.s. magistrate Cynthia Reed Eddy's (Eddy)
08/01/2019 Report and Recommendation ("R and R")
(attached Appendix - G) to dismiss certain
claims (due process of 14th Amendment claims,
due process claim under 5th Amendment, 6th Amendment
claim, claims brought against defendants in their
official capacity, claims concerning violation of
D.O.C. Code of Ethics and Policies, claims alleged
to be untimely, and claims against defendants
John wetzel (wetzel)/Robert Gilmore (Gilmore) in
their supervisor capacity) and Program Review
Committee (PRC). Defendants Michael Stella (Stella),
Balestrieri and Erickson are Not specifically named
as being dismissed in said orders. But were stated
to have been dismissed in said order by 02/23/2021
Order (Appendix - I) granting defendants' Motion
to strike. On 02/26/2019, petitioner filed
Opposition Memorandum (District court Docket
Entry (DCDE) or ECF #33) to defendants' First
Motion to Dismiss (ECF #28 and #30). On 08/15/2019,
petitioner filed objections (ECF #49) to Magistrate's
08/01/2019 R and R (ECF #45). 09/24/2019, petitioner
filed First Amended complaint (FAC) (ECF #53).
On 01/23/2020, petitioner filed Brief (#73) in

Opposition to Defendants' Second Motion To Dismiss (ECF #61 and #62). On 06/15/2020, District Court Judge Horan filed order (ECF #75, Attached Appendix - F) agreeing with magistrate Eddy's 05/11/2020 R and R (ECF #88, Attached Appendix - E) to dismiss petitioner's Equal protection claim. After discovery process ended, defendants filed an extremely untimely/baseless Motion To Strike (ECF #151) on 02/04/2021. On 02/23/2021, magistrate granted defendants' Motion to Strike (Attached Appendix - I). On 05/11/2021, District Judge agreed with magistrate order (Appendix - E). On 06/11/2021, defendants Wetzel, Gilmore, Longstreth filed motion for Summary Judgment (ECF #193), Brief in support (ECF #194), and Concise Statement of Material Facts (ECF #195) and Appendix (ECF #196). On 07/19/2021 and 08/18/2021, petitioner's Motions for Extension of Time to respond to Summary Judgment Motion (ECF #202 and #211). On 08/30/2021, petitioner filed Memorandum in opposition to Defendants' Motion For summary Judgment (ECF #214), Response to Defendants' statement of Material Facts Not in Dispute (ECF #215), and Appendix of Exhibits (ECF #216, A-22). On 12/23/2021, District Judge Horan issued order (Attached Appendix - B) agreeing with magistrate's 11/16/2021 R and R (Appendix - D) granting defendants' Motion for Summary Judgment,

despite petitioner's objections (ECF#222) docketed on 12/02/2021. On 01/24/2022, District Judge filed order (Appendix - C) denying petitioner's 01/09/2022 (docketed 01/13/2022) Motion to Alter or Amend Judgment (ECF#226). On 02/09/2022, petitioner filed Notice of Appeal and 505 dollar appeal/docket fee for Third Circuit, docketed on 02/23/2022 (ECF#236). (Ricardo Noble v. John Wetzel, et. al., civil Action No. 22-1328). On 06/15/2022, petitioner filed Appellant's Brief/Appendix Support of Appeal. On 04/14/2022, the court granted Petitioner's Motion to proceed in forma pauperis for purpose of filing reduced number of copies of Brief and Appendix. On 07/14/2022, defendants filed Brief. On 07/31/2022, petitioner filed Brief in Reply to defendants' Brief. On 11/04/2022, 3rd circuit court judges filed order affirming district court's decision (Appendix - A). On 11/15/2022, petitioner filed "Petition for Rehearing, with suggestion for Rehearing En Banc". On 12/29/2022, 3rd circuit court denied petitioner's Rehearing request. (Appendix - K). On 01/06/2023, mandate issued. On 01/11/2023, petitioner filed Motion to stay Mandate and objections to costs Motion, petitioner didn't receive 12/29/2022 order (Appendix - K) until 01/11/2023. Also, contrary to 3rd circuit court order 11/04/2022, p. 10, Foot note 9, it's obvious that petitioner did challenge District court's 01/24/2022 denial of his motion for reconsideration.

REASONS FOR GRANTING THE PETITION

The decisions of the lower courts are in conflict with the U.S. Supreme court, Third circuit court's own previous decisions and other appellate courts in similar cases, the issues are of National importance to petitioner and those similarly situated, decisions of the lower courts are erroneous and abuse of discretion.

The lower courts ignored when the statute of limitations to file a 42 U.S.C. 1983 lawsuit begins and is tolled. It's unconstitutional for prison staff at one prison (S.C. - Greene) in PA, D.O.C. system to, without authority or basis and in violation of PA, D.O.C. Policy, classify/treat a PA, D.O.C. authorized, recognized, and accommodated religion (NGE(50%)) as a gang/STG and petitioner as STG member because he is NGE(50%) while at same time claiming NGE(50%) and petitioner are not classified as a STG because they knew what they were doing is unconstitutional,

The courts make prisons less safe for prisoners and prison staff by allowing prison staff to get away with their racist, bigoted, and religious discriminatory actions toward prisoners. One of the guaranteed ways to greatly significantly reduce the amount of lawsuits filed by prisoners and so-called assaults on prison staff by prisoners is for the courts to hold prison staff accountable for violating prisoners' U.S. constitution rights and stop pretending like sufficient facts/evidence prisoners provide to support their lawsuit are not sufficient. Thus, dismissing lawsuit under false pretenses,

betraying their oath of office and U.S. constitution, and perpetuating prison staff's culture of racist, abusive, bigoted unconstitutional actions toward prisoners.

1. The court erred/abused discretion ignoring law and fact that defendants stated that S.C.I.-Greene defendants and other S.C.I.-Greene staff classified and treats NGE(50%) as a STG because Pennsylvania D.O.C. classifies the NGE(50%) as a STG, despite fact that Head of PA, D.O.C. stated in interrogatories/pleadings that the PA, D.O.C. never classified the NGE(50%) as a STG.

The court erred/abused discretion by ignoring ~~fact~~/Fact that defendants stated that S.C.I.-Greene defendants and other S.C.I.-Greene staff claim they classified/treat NGE(50%) as a STG because the PA, D.O.C. classifies NGE(50%) as a STG, despite fact that PA, D.O.C. (Pennsylvania Department of corrections) never classified the NGE(50%) as a STG. See, District Court Docket Entry (DCDE) #216, Exhibits - F, G, H, J, and P; Anderson v. Bessemer City, NC, 470 U.S. 564 (1985); RL ut PA.

2. The court erred/abused discretion by ignoring law and fact that defendants admitted, and petitioner's exhibits verified, that S.C.I.-Greene defendants and other S.C.I.-Greene staff, without authority or basis, and in violation of D.O.C. Policy, classified/treated NGE(50%) as a gang and STG and petitioner as a STG member because he is NGE(50%).

The court erred/abused discretion by ignoring law and fact that defendants admit, and petitioner's exhibits verified, that S.C.I.-Greene defendants and other S.C.I.-Greene staff, without authority or basis, and in violation of PA, D.O.C. Policy classified/treated NGE(50%) as a gang/STG and petitioner as a STG member because he is NGE(50%). See, DCDE #216, F, G, J, M, N, O, and P and T; Anderson v.

Bessimer City, NC, 470 U.S. 564 (1985); RLUZPA.

3. The Court erred/abused discretion by ignoring law and fact that the defendants admit, and petitioner's exhibits verify that No S.C.I.-Greene defendant or other S.C.I.-Greene staff had authority or basis to classify petitioner as a STG member or NGE(50%) as a STG.

The court erred/abused discretion by ignoring law and fact that defendants admit, and petitioner's exhibit verify, that No S.C.I.-Greene defendant or other S.C.I.-Greene staff had authority or basis to classify petitioner or NGE(50%) as a STG. DCDE #216, Exhibits - F, L, J, K, M, N, O, P, and Q verify that state Correctional Institution Greene defendants and other S.C.I.-Greene staff designated NGE(50%) and petitioner as a STG on institutional level, STG designation is not determined on institution level, and P.A.D.O.C. central office never designated petitioner or NGE(50%) as a STG. Anderson v. City of Bessimer, NC, 470 U.S. 564 (1985).

4. The court erred/abused discretion by falsely claiming petitioner was not classified as a STG member because he is NGE(50%), despite fact that defendants admitted, and petitioner's exhibits verified, that it was because petitioner is NGE(50%).

The court erred/abused discretion by falsely claiming petitioner was not classified as a STG member because he is NGE(50%), ~~but~~ because of alleged assaultive behavior. District Judge Horan and U.S. Magistrate Eddy, Not the defendants, made said false allegation. The defendants stated S.C.I.-Greene defendants/staff classified petitioner as a STG member because he is NGE(50%). DCDE #216, Exhibits - C, J, M. Petitioner was never designated as

an Individual ~~Security~~ Threat. DCDE#216, Exhibits-
I (p. 2, foot Note 4), Exhibit-F. The same alleged
activity (assaults, etc.) by a NON-STG prisoner is
not classified or tracked as "STG Activity." STG
Activity is activity or actions of a particular
prisoner which relate directly or indirectly to goals
of a STG. Fraise v. Terhune, 283 F.3d 506 (3d Cir. (N.J.)
2002); Castro v. Glunt, 2016 U.S. Dist. Lexis 145612
(W.D. Pa. 2016). Can't be a STG member without being
part of a "group" designated as a STG. DCDE#216,
Exhibits-F, L, N, O, P.

5. The court erred/abused discretion by claiming
as "immaterial" the court using "Department of corrections"
(D.O.C.) and "S.C.I.-Greene" interchangeable as if they are
the same, despite petitioner's clear distinction between
S.C.I.-Greene defendants' and other S.C.I.-Greene
staff's retaliatory, baseless, and unauthorized practices,
policies, and regulations regarding the NGE (50%) and
Pennsylvania Department of corrections's policies,
practices, and regulations regarding such.

The court erred/abused discretion by claiming as "immaterial"
the court using "Department of corrections (D.O.C.)" and "S.C.I.-
Greene" interchangeably as if they are the same, despite
fact that all of petitioner's pleadings/exhibits state and verify
that S.C.I.-Greene defendants and other S.C.I.-Greene staff's
practices, policies, and regulations regarding the NGE (50%)
are contrary to and in violation of PA, D.O.C.'s practices
policies and regulations regarding the NGE (50%). DCDE#33;
DCDE#216, Exhibits-A to 22; Anderson v. City of Bessemer,
NC, 470 U.S. 564 (1985).

6. The court erred/abused discretion by ignoring law and fact that the defendants admitted, and petitioner's exhibits verified, that S.C.T. Greene Superintendent Admitted that there was no evidence OF STG criteria (Activity) in petitioner's Background, which included the alleged incidents S.C.T. Greene defendants falsely claim are gang or STG Activity. Therefore, petitioner was never placed in the Security Threat Group (STGMU) program.

The court erred/abused discretion by ignoring law and fact that S.C.T. Greene Superintendent admitted that there is no STG (Security Threat Group) Activity (Criteria) in petitioner's Background, which includes the alleged assaults S.C.T. Greene defendants / other S.C.T. Greene staff claim are STG or Gang activity. Thus, petitioner was never in the STGMU program. DC DE # 216, Exhibits - F, L, LL, O, P, and MM; Anderson v. City of Bessemer, NC, 470 U.S. 564 (1985).

7. The court erred/abused discretion by affirming District court orders granting summary judgment on and dismissing petitioner's First Amendment of U.S. Constitution Free Exercise of Religion claim, despite ample evidence supporting petitioner's claim.

The court erred/abused discretion by affirming District Court's orders granting summary judgment on and dismissing petitioner's First Amendment of U.S. Constitution Free Exercise of Religion claim. Attached Appendix - A (3rd Cir. 11/04/2022 opinion/order, Noble v. Wetzel, 22-1328; 2022 U.S. App. Lexis 30676 (3rd Cir. 11/04/2022)); 2021 U.S. Dist. Lexis 245011 (W.D. Pa. 12/23/2021) Appendix - B; Appendix - C - 2022 U.S. Dist. Lexis 35094 (W.D. Pa. 01/24/2022). The defendants

Were not entitled to Summary Judgment as a matter of law. Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986),

Summary Judgment is granted if the record before court shows there is no genuine issue as to any material fact and the movant is entitled to summary judgment as a matter of law. Fed. R. Civ. P. 56(a); Wishkin v. Potter, 476 F.3d 180 (3d Cir. 2007). In deciding summary judgment, court must consider all evidence and inferences drawn therefrom in light most favorable to non-moving party. Celotex Corp. v. Catrett, 477 U.S. 317 (1985). Pro Se pleadings are to be construed more liberally than pleadings drafted by a lawyer. Haines v. Kerner, 404 U.S. 519 (1972).

Free exercise clause of 1st Amendment of U.S. Constitution prohibits prison officials from denying a prisoner reasonable opportunity of pursuing his faith without fear of penalty. Cruz v. Beto, 405 U.S. 319 (1972); Marria v. Broadus, 2003 U.S. Dist. Lexis 13329 (S.D.N.Y. 2003). The Nation of Gods and Earths (NGE), commonly called, "The 5%", is officially recognized, authorized, and accommodated as a religion by the Pennsylvania (PA) Department of Corrections (D.O.C.), during all times relevant to this lawsuit. Petitioner has been a NGE (5%) for over 30 years. DCDE #53, p. 4; DCDE #216, Exhibit-F. The NGE (5%) was never designated as a STG by PA D.O.C.. DCDE #53, p. 5-6, 8-11, 23; DCDE #216, Exhibit-N, P. STG designation is not made or

determined on the Institutional level, DCDE#216, Exhibits O, P, and Q. STG designation are determined by the Commissioner (head) of D.O.C., Fraise v. Terhune, 283 F.3d 506 (C.A.3 (N.J.) 2002). In Pennsylvania, the Commissioner (head) of the D.O.C. is called, "Secretary of D.O.C." During all times relevant to this lawsuit defendant John Wetzel was Secretary (head) of PA.D.O.C. and, thus, the only PA.D.O.C. official who could make the STG designation. No Secretary of PA.D.O.C. has ever designated the NGE(50%) as a STG. DCDE#216, Exhibit-P.

The District Court Judge and U.S. Magistrate, Not defendants, claimed petitioner was not designated as a STG because he is a NGE(50%). Despite fact that defendants admitted that it was because petitioner is a NGE(50%) and said designation was made on the institutional level by S.C.I.-Greene staff/defendants without authority or basis, DCDE#216, Exhibit-M, DCDE#62, p. 8. Defendants state that S.C.I.-Greene defendants and other S.C.I.-Greene staff classify/treat the NGE(50%) as a STG because the PA.D.O.C. designated the NGE(50%) as a STG, DCDE#216, Exhibit-J, But, PA.D.O.C. Never designated the NGE(50%) as a STG. DCDE#216, Exhibits-N, P, AA. S.C.I.-Greene Program Review Committee (PRC) 08/24/2010 DC-141-Pur+3 PRC Report #A825741) stated that the NGE(50%) is a gang. DCDE#216, Exhibits-M, T. All gangs are STG's. Petitioner appealed PRC's

false gang classification of NGE(50%). DCDE #216, Exhibit-T. Petitioner was never a STG or gang member and NGE(50%) is not a gang. DCDE #216, Exhibit-VV; DCDE #53.

Defendants continue to have it "both ways." That is, defendants admit that for years, even up to 2021, whenever S.Ct.-Greene defendants and other S.Ct.-Greene staff want to confiscate NGE(50%) material (books, etc.) or negatively influence petitioner's review or classification for something, they give petitioner and NGE(50%) the false/retaliatory STG designation. Then, when petitioner appeals or files a grievance about it, they claim that petitioner and NGE(50%) are Not classified as a gang or STG, DCDE #53, p. 5-29; DCDE #216, Exhibits - A, C, F, J, G, M, N, O, P, S, T, Y, Z, U to AA.

Prison officials' classification of prisoner is unconstitutional if it's done in retaliation for free exercise of 1st Amendment of U.S. Constitution, racial, religious, or political discrimination. Spruyette v. Hoffner, 181 F.Supp. 2d 736 (M.D. Mich. 2001) (false STG classification is unconstitutional); Rouse v. Benson, 193 F.3d 936 (8th Cir. 1999); Rauser v. Horn, 241 F.3d 380 (3d Cir. (CA) 2002); Panayoti v. Annucci, 898 F.Supp. 2d 469 (N.D.N.Y. 2012). Mere fact that NGE(50%) prisoners have been involved in altercations with other prisoners and prison guards does not establish that NGE(50%) literature caused those incidents. Marrin v. Broadus, 2003 U.S. Dist. Lexis 13329 (S.D.N.Y. 2003).

S.C.T. Greene defendants placing false STG designation in petitioner's prison 02/26/2013 JCS (Integrated case summary - Initial classification summary) and giving said knowingly false STG document to prosecutor as part of petitioner's 07/28/2016 Juvenile Lifer Information Packet (JLIP) for petitioner's 01/29/2018 Resentencing Hearing to give false impression that petitioner is a threat to safety and security in prison and community outside of prison because he is NGEL(50%) imposes substantial burden on petitioner's free exercise and freedom of religion and parole opportunities. DCDE#216, Exhibit-P (explains purpose of JCS); Sibron v. New York, 392 U.S. 40 (1968); Washington v. Klem, 947 F.3d 272 (3d Cir. (Pa.) 2000); Hilli v. Sciarrotta, 140 F.3d 210 (2d Cir. 1998). In attempt to hide the fact that the "Juvenile Lifer Information Packet" contained the false 02/06/2013 STG JCS, defendants attached the "Juvenile Lifers: From Re-sentencing to Re-entry" @ February 2018 (DCDE# 30-1) to their Brief (DCDE#30), named it "Juvenile Lifer Fact sheet," and falsely claimed it was the 07/28/2016 "Juvenile Information Packet" mentioned in petitioner's Amended Complaint (DCDE#53). DCDE#215, p. 18-19; DCDE#216, Exhibits - K (#11), H. Defendants later admitted their DCDE#30-1 was not the JLIP. Also,

classifying petitioner as a "suspected STG member" is false and violates 1st Amendment. All of petitioner's claims are within the statute of limitations. Statute of limitations to file a lawsuit begins when injured party knows or reasonably should of known of his injury and it's cause. Samerit v. City of Philadelphia, 142 F.3d 582 (3d Cir. 1992); Mest v. Cabot Co., 449 F.3d 506 (3d Cir. 2006) (Pennsylvania's Fraudulent concealment doctrine); West^v Phila. Elec. Co., 45 F.3d 774 (3d Cir. 1995).

Petitioner was at S.C.T.-Greene from 2007 to 2020. Prisoners are not permitted to possess STG material or practices STG practices, so petitioner stopped trying to order or receive NGE(50%) material or practice other NGE(50%) practices while at S.C.T.-Greene, despite fact that on 04/06/2015 and 04/13/2015, the PA.D.O.C. recommended and approved petitioner's NGE(50%) Religious Accommodation requests including, but not limited to, possessing NGE(50%) material (books, lessons, etc.) and group viewing of NGE(50%) audio/video resources. DCDE#53, p. 5-16; DCDE#216, Exhibits - A, F, G, J, K, L, M, N, O, P, S, T, Y, Z, AA, VV. Studying to the NGE(50%) is similar to what praying is to Muslims, Christians, etc.

Defendants using false STG classification as a significant motivating factor in placing/continuing petitioner on Restricted Release list (RRL) (indefinite

solitary confinement) and solitary confinement in past ~~(before)~~ RRL placement) and recent years for excessive/unreasonable time violate 1st Amendment. Also, the courts abuse discretion by erroneously using terms "S.C.I.-Greene" and "D.O.C." interchangeably as if they're the same, despite petitioner's exhibits and pleadings stating clear distinctions between the two regarding policies, practices, etc. regarding NGE(50%) and petitioner. DCDE#53, DCDE#216, Exhibits-A to Z Z; Petitioner's Appellant Brief to Third circuit court (dated 06/15/2022).

8. The court erred/abused discretion by affirming District court's orders granting Summary Judgment on and dismissing petitioner's RLUIPA claim.

The court erred/abused discretion by affirming District Court's orders granting Summary Judgment on and dismissing petitioner's Religious Land Use and Institutionalized Persons Act (RLUIPA) claim. DCDE#53, #214, #215, DCDE#216; Appellant's Brief to Third circuit (06/15/2022); DCDE#222, #223, #224, Washington v. Klem, 947 F.3d 272 (3d Cir. (Pa.) 2002); 42 U.S.C. 2000cc-1(a); Marria v. Broadus, 2003 U.S. Dist. Lexis 13324 (S.D.N.Y. 2003). RLUIPA defines "religious exercise" as any exercise of religion, whether or not compelled by, or central to, a system of religious belief, 42 U.S.C. 2000cc-5(2)(A). S.C.I.-Greene defendants and other S.C.I.-Greene staff, without authority or basis, classifying/treating NGE(50%) as a STG and petitioner as a STG because he is NGE(50%),

banning NGE(50%) material (books, etc.), using false STG classification to negatively influence petitioner's 2018 Resentencing hearing/D.O.C. classifications/restrictions, using knowingly false STG classification to continue petitioner in solitary confinement and place/continue petitioner on RRL substantially burden's petitioner's religious exercise, DCDE #53; DCDE #214, #215, #216 (Exhibits A to Z); Washington v. Klem, 947 F.3d 272 (3d cir. 2002). Also, in Defendants' concise statement of material facts (DCDE #195), for first time ever, defendants claim that, "as of 2021," petitioner is Not classified as a STG member, but as a "suspected" STG member, despite fact that NGE(50%) was never designated as a STG by P.A.D.O.C. and the only "Group" defendants have ever knew or "suspected" petitioner being part of is the NGE(50%). DCDE #215, #216, Exhibit-VV.

Contrary to Magistrate's Report and Recommendation (R and R) (Attached Appendix-D), p. 13-14, p. 14, footnote #13, and District Judge's order (Attached Appendix-B), p. 12, the "2015 grievance" was grievance #576596 (DCDE #216, Exhibit-Y) and it did not request any accommodations. Grievance #576596 was about S.L.I.Z.-Greene security staff and Librarian confiscating petitioner's drawing of the universal flag of the NGE(50%) as STG material. Petitioner had to file two grievances (#576956 and

#582209) against S.I.C.I.-Greene staff/defendants to get it returned to petitioner. DCDE#53, p. 13, 15; DCDE#216, Exhibits-Y; Z, VV (p. 9-11). Page 14, footnote #13 of Attached Appendix-D also falsely states petitioner filed a grievance about D.O.C. denying a NGE(50%) book he ordered in 2009. Actually, the grievance filed in 2009 was grievance #2812B (DCDE#216, Exhibit-BB) and it was about/against S.I.C.I.-Greene staff, Not D.O.C., denying said book ("In the Name of Allah: A History of Clarence Bx and The Five Percenters" by Wakeel Allah), despite fact that it wasn't on D.O.C. banned book list. DCDE#53, p. 14-15, #214, #216 (Exhibit-VV, p. 11-12, 15). Said book denial was a continuation of S.I.C.I.-Greene staff denying NGE(50%) material as STG material. DCDE#53, p. 8-14; Cowell v. Palmer, Twpr, 263 F.3d 286 (3d Cir, 2001) (Continuing Violation Doctrine).

9. The court erred/abused discretion by affirming District court's orders granting Summary Judgment on and dismissing Petitioner's Eighth Amendment conditions of confinement claim.

The court erred/abused discretion by affirming District Court's orders granting Summary Judgment on and dismissing Petitioner's Eighth Amendment conditions of confinement claim. DCDE#53, p. 12-25; #214; #215 (p. 1-19); #222, p. 7-11; DCDE#216, Exhibits-DD; VV (p. 16-22), TT to ZZ; Wilkinson v. Austin, 545

U.S., 209 (2005); Allan v. Bartowski, 574 Fed. Appx. 135 (3d Cir. 2014); Rauser v. Horn, 214 F.3d 330 (3d Cir. 2002); Shoatz v. Wetzel, 2:13-cv-00657, Document 87 (W.D.Pa. 2016); Johnson v. Wetzel, 2016 WL 5118149 (W.D.Pa. 2016); Appellant's Brief (06/15/2022), p. 20-25.

The court agreed that petitioner proved the Objective prong required for 8th Amendment violation. But the court erroneously claims that petitioner did not satisfy the subjective prong of showing that prison officials were deliberately indifferent to his health or safety. Circumstantial evidence can establish the subjective prong. Farmer v. Brennan, 511 U.S. 825 (1994). Petitioner's Amended complaint, pleadings, and Exhibits specifically state various negative mental and physical effects of prolonged solitary confinement he suffers and each defendant were aware of and disregarded including, but not limited to, high anxiety/stress, bouts of depression, denial of sleep, social interaction, exercise, environmental stimuli, education/vocational programs. DCDE# 216, Exhibit-VV (p. 19-20), DCDE# 53, #222, #223, #214 (p. 6-7); #215 (13-14). Petitioner also gave District court multiple Appeals of Administrative custody from 2016 to 2017 at S.C.I. Greene, which defendant Robert Gilmore (Gilmore) gave response, complaining of negative effects of prolonged solitary confinement suffered by petitioner. DCDE# 216, Exhibits-VV (19-22), YY, ZZ; DCDE# 215 (p. 16-17).

Petitioner also submitted evidence that after

Speaking with petitioner several times in solitary confinement at S.C.I.-Greene, Mitigation specialist/psychologist William Niles became concerned about petitioner's mental health and recommended that a psychologist more qualified than himself do a full psychological evaluation on petitioner. DCDE#216, Exhibit-X X, VV(p. 20-21); DCDE#214(p. 12); DCDE#215(p. 16). Pro se prisoner's sworn statements regarding medical/psychological evidence is sufficient to survive summary Judgment, McMillian v. Wetzel, 790 Fed. Appx. 455 (3d cir. 2019). But District Judge, Appendix-B(p. 8), states that petitioner did not produce competent evidence that he suffered from a serious medical need that requires a physician's or psychologist's attention and petitioner only provides "self-serving assertions." Thus, making credibility determination and resolving disputed factual issues at the summary judgment stage, which judges are not supposed to do at summary judgment stage. Marino v. Indus. Crating Co., 358 F.3d 271 (3d cir. 2004); Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986).

petitioner alleged and submitted as exhibits ample evidence verifying that S.C.I.-Greene defendants and other S.C.I.-Greene staff, without authority or basis, used the false STG classifications as a significant motivating factor to place and continue petitioner in solitary

Confinement for excessive/unreasonable amounts of time and RRL. DCDE#53(p.15-18); DCDE#215; DCDE#216, Exhibits- J, K, VV, T to X.

The District court heavily relied on Defendants' misleading and blatantly altered heavily DCDE#196, Exhibit-E (2014 Cumulative RRL and Z-code Vote sheets). The court states that the 2003 and 2006 incidents (misconducts) mentioned in defendants' DCDE#196, Exhibit-E are "believed to be gang related" by S.C.I.-Greene defendants and other S.C.I.-Greene staff, said incidents happened at prisons other than S.C.I.-Greene, Appendix-B(p.2). But the court fails to mention that S.C.I.-Greene defendants/staff claim the "gang" is the NGE(50%). DCDE#53(p.8); DCDE#222(p.4-5); DCDE#216, Exhibits- M, T. None of said incidents were gang related or had anything to do with the NGE(50%) and petitioner was never part of a gang, DCDE#53(p.8); DCDE#216, Exhibit-VV. Also, the only "group" mentioned in defendants' DCDE#196, Exhibit-E, and all other pleadings/exhibits of defendants is the NGE(50%).

It's disingenuous and abuse of discretion for District Court to claim that the false STG classification of the NGE(50%) and petitioner weren't a motivating factor in placing petitioner on RRL, since defendants blatantly blacked out (with Black marker) ALL comments in "Comments"

section and much of "Staff Reason and Recommendations" section of defendants' 2014 cumulative votes for RRL (DCDE #196, Exhibit-E) stating why S.C.I. Greene defendants and other S.C.I. Greene staff voted to place petitioner on RRL. DCDE #215 (p. 5-6); DCDE #216, Exhibit-VV (p. 17-18). Also, in said 2014 cumulative vote sheets, defendants deceptively blacked out (with black marker) the name and D.O.C. #, D. number of the inmate regarding the alleged 2003 incident (misconduct # A461766) in the inmate dining hall at S.C.I. - Huntingdon on 10/29/2003 to hide the fact that the inmate (Joye Williams, #EK/980) was petitioner's cellmate (prisoner who a prisoner lives in same prison cell with) at said time and was not gang related. DCDE #215, p. 3-6; DCDE #216, Exhibits-PP, RR, TT, VV (p. 16-18); WW; Com. v. Ricardo Noble, 56 CA 2004 (Huntingdon county); Joye Williams v. Beard, 482 F.3d 637 (3d Cir, 2007).

The false STG classification of NGE (506) and petitioner was repeatedly used/considered at petitioner's Annual Reviews of RRL at S.C.I. Greene from 2015 to 2020. DCDE #53, p. 12-16; DCDE #216, Exhibits-F, J, K, VV (p. 12-14), T; DCDE #215 (p. 7-8). Also, defendants hide defendant Wetzel's reasons for RRL placement and continuation of petitioner on RRL. Petitioner was removed from RRL in June 2021 and placed in general population at S.C.I. Houtzdale on

January 12, 2023, Defendants also acknowledge that the STG classification was false and petitioner is not classified as a STG member,

District Judge, in Appendix-B (p. 3), and magistrate, in Appendix-D (p. 4), falsely state that, on 02/12/2018, petitioner submitted a grievance (#720837) to PA.D.O.C., requesting removal of the false STG classification. Actually, grievance #720837 was submitted to S.C.I.-Greene defendants and ~~Defendant~~ Longstreth (of S.C.I.-Greene) verified in his response to grievance #720837 that S.C.I.-Greene defendants classified petitioner as a STG because he is NGE (50%), DCDE #53 (p. 7-8); DCDE #222 (p. 5-6); DCDE #226 (p. 9-10); DCDE #216, Exhibit 5- C, ~~V~~. Also, defendants admit that one of the three institutions (prisons), S.C.I.-Frackview, Longstreth references in his grievance #720837 response and JLIP never existed. DCDE #53 (p. 8); DCDE #216, Exhibit-P, Contrary to magistrate's R and R (Appendix-D, p. 4, footnote 9), defendants' delay in considering the grievance #720837 was not unintentional. It was intentional. D.O.C. central office remanded said grievance #720837 back to S.C.I.-Greene defendants at S.C.I.-Greene for a response/correction and, in violation of D.O.C. Policy, they refused to respond. DCDE #53 (p. 23-24); DCDE #222 (p. 16); DCDE #216, Exhibit-C, D.

Also, Contrary to magistrate's R and R (Appendix-D, p. 10, footnote #12), petitioner only cites Russell Shoatz's civil cases (Shoatz v. Wetzel, 2:13-LV-0657 (W.D. Pa. 2016), etc.) since they're leading cases on long-term solitary confinement and RRL in Pennsylvania. The courts' and defendants' hatred of Shoatz for even the mention of his name is weak, disgusting and deplorable. Especially, since the courts and prison officials (defendant Wetzel, S.C.I. Greene staff and other P.O.C. staff) maliciously held Shoatz in solitary confinement, causing mental/physical problems, for 22 years, let him in general population when he was almost dead, refused to properly treat his health problems and is now dead largely because of prison officials' and courts' decisions.

Also, in solitary confinement, petitioner could not participate in group viewing of NGE (50%) audio/video resources. DCDE # 216, Exhibit-F. The court also falsely states that petitioner has five prior assaults. Appendix-A (p. 3).

10. The court erred/abused discretion by affirming District court's orders granting summary Judgment on and dismissing petitioner's conspiracy claim.

The court erred/abused discretion by affirming District court's orders granting summary Judgment on and dismissing petitioner's conspiracy claim. Appellant's Brief to Third circuit (06/15/2022) p. 25; DCDE # 223 (Appendix-B); Appendix-C; DCDE # 226. Adickes v. S.H. Kress & Co., 398 U.S. 144 (1970). S.C.I. Greene defendants knowingly, ~~and~~ without

authority or basis, falsely classified/treated petitioner and NGE(50%) as a STG, each defendant knew it was false/unauthorized, agreed to and participated in hiding and enforcing it and refusing to remove/correct it, which is unconstitutional conspiracy, DCDE# ~~8~~ 3, p. 4-24; DCDE# 214, #215, #216 (EXHIBITS-A to ZZ); Dice v. Johnson, 711 F. Supp. 2d 340 (M.D. Pa. 2010); Memphis v. City of Memphis, 361 F.3d 898 (6th Cir. 2004); Ammlung v. City of Chester, 494 F.2d 811 (3d Cir. 1974); Adickes v. S.H. Kress & Co., 388 U.S. 144 (1976),

11. The court erred/abused discretion by affirming District court's order dismissing Petitioner's Equal Protection claim.

The court erred/abused discretion by affirming District court's order dismissing petitioner's Equal protection claim, DCDE# 88, p. 9-10 (APPENDIX-E); Appendix-F; Appendix-G; Appendix-H; DCDE# 49; DCDE# 90; DCDE# 53; DCDE# 216, EXHIBITS-A to ZZ; Cruz v. Beto, 405 U.S. 319 (1972). S. C. Z-GRENE defendants, based on their own personal prejudices (racial and religious), knowingly falsely classified/treated NGE(50%) and petitioner as a STG without authority or basis; confiscating/banning NGE(50%) material (books, etc.) as STG material; giving prosecutor false STG document to negatively influence petitioner's resentencing; and using false STG designation as main factor in placing/continuing petitioner on RRL and solitary confinement for

excessive/unreasonable amounts of time and while
at same time claiming petitioner and NGE(5%) are not
classified as a STG violate Equal protection. DCDE#53;
DCDE#12; DCDE#38; DCDE#90; DCDE#216, Exhibits - A to ZZ;
Appellant's Brief to Third Circuit (06/15/2022); Rausser v. Horn,
241 F.3d 330 (3d Cir. 2001); Village of Willowbrook v. Olech,
528 U.S. 562 (2007); Marrin v. Broadbus, 2003 U.S. Dist.
Lexis 13329 (S.D. N.Y. 2003); Shoatz v. Wetzel, 2:13-cv-00657
(W.D. Pa. 2016); Johnson v. Wetzel, 2016 WL 5118149 (M.D. Pa. 2016).
Liteky v. U.S., 114 S.Ct. 1147 (1994).

12. The court erred/abused discretion by affirming
District court's order Dismissing Petitioner's Due Process
of Fourteenth Amendment of U.S. Constitution claims.

The court erred/abused discretion by affirming
District Court's order Dismissing petitioner's Due Process of
Fourteenth Amendment of U.S. Constitution claims. DCDE#12;
DCDE#12, p. 3-15; DCDE#33, Appendix - G, p. 9-10; DCDE#49, p. 3-8;
Appendix - H; Shoatz v. Wetzel, 2:13-cv-0657, Document 87 (W.D. Pa.
2016). The 14th Amendment prohibits a State from
depriving any person of life, liberty, or property without
due process of law, Wilkinson v. Austin, 545 U.S. 209 (2005).

Petitioner's case is different than the inmates in
New Jersey's STG management unit (STGMU) mentioned
in Fraiser v. Terhune, 283 F.3d 506 (3d Cir. 2002), that the
lower court judges in petitioner's case base their decisions.
DCDE#12; Appendix - G, p. 10-11; Appendix - H, DCDE#53. Because

S.L.T. Greene defendants and other S.L.T. Greene staff, without authority or basis, classified/treated the NGE(5%) and petitioner as a STG, despite fact that Pennsylvania, PA.D.O.C., never designated petitioner or NGE(5%) as a STG; petitioner was never in the STGMu program; the false STG classification of NGE(5%) and petitioner was used/considered against petitioner at his S.L.T. Greene periodic reviews of RRL and solitary confinement before and after being placed on RRL; the false STG designation was given to prosecutors to negatively effect petitioner's resentencing; false STG classification was used to confiscate/ban NGE(5%) material (books, etc), and all while at same time defendants admitted and/or claimed that NGE(5%) and petitioner were Not classified as a STG. Thus, violating Due process, DCDE#12; DCDE#53; DCDE#38; DCDE#30; DCDE#216, Exhibits-A to 22; Samerie v. city of Philadelphia, 142 F.3d 582 (3d cir. 1998); Panayoti v. Annucchi, 898 F. Supp. 2d 469 (N.D.N.Y. 2012); Shoatz v. Horn, 213 F.3d 140 (3d cir. 2000); Appellant's Brief (06/15/2023); Bowen v. Ryan, 248 F. App'x 302 (3d cir. 2007).
Prisoners have Due process right to have incorrect information removed from their prison file. Young v. Hawk, 2016 U.S. Dist. Lexis 98152 (M.D. Pa. 2016); Paine v. Baker, 545 F.2d 197 (4th cir. 1979). Due process is violated when judge uses false information to decide sentence/parole, Sibron v. New York, 392 U.S. 401 (1968); Paul v. Davis, 424 U.S.

693(1986)

13. The court erred/abused discretion by affirming District court's order granting defendants' extremely untimely, baseless, and overreaching Motion To Strike all paragraphs containing evidentiary facts, Background, historical material related to all claims and defendants in petitioner's Amended complaint.

The court erred/abused discretion by affirming District court's order granting defendants' extremely untimely, baseless and overreaching Motion To Strike all paragraphs (6, 7, 9, 10, 11, 12, 13, 16, 17, 18, 30, 31, 32, 33 and 34) containing evidentiary facts, background, and historical material related to all claims and defendants in petitioner's Amended complaint. As a result, prejudiced petitioner, changed and confused issues of the case. Appendix - I; Appendix - J; DCDE #151, #157, #182, #161, #179, DCDE #53, p. 5-13, 19-21; Fed. R. Civ. P. 12(F)(2); Paraschos v. YBM Magnex Int'l, Inc., 2000 U.S. Dist. Lexis 3829 (E.D. Pa. 2000); Miller v. Group Voyagers, 9/2 F. Supp. 164 (E.D. Pa. 1998); Meditz v. City of New York, 658 F.3d 364 (3d Cir. 2011). Also, court orders (Appendix - G and Appendix - H) did not specifically name defendants Erickson, Balestrieri, and Stella as dismissed. None of petitioner's claims are time-barred. Samerie v. City of Philadelphia, 142 F.3d 582 (3d Cir. 1998); Mest v. Cabot Corp., 499 F.3d 306 (3d Cir. 2006); Appellant's Brief (06/15/2022), p. 28-29.

14. The court erred/abused discretion by affirming District court's order dismissing claims against defendants John Wetzels, Robert Gilmore, and Steve Longstreth for supervisor liability and their personal involvement.

The court erred/abused discretion by affirming District court's order dismissing claims against defendants wetzel, Gilmore, and longstreth for supervisor liability and their personal involvement, DCDE#12, p. 6-7, 10-15; Appendix-G, p. 17-18; DCDE#53, p. 7-13, 15, 18-24; Appendix-H; Rhode v. Dellaciprette, 845 F.2d 1195 (3d cir. 1988), summary judgment improper where defendants had actual knowledge through grievance responses. Grievances and responses sufficient to prove actual knowledge and acquiescence. Diaz v. Palakovich, 448 Fed. Appx. 211 (3d cir. (Pa.) 2011); Atkinson v. Taylor, 316 F.3d 257 (3d cir. 2003).

At all times relevant to petitioner's case, defendant wetzel was secretary (head) of P.A.D.O.C. and responsible for oversight, operation and administration of all state prisons in P.A.D.O.C., DCDE#53, p. 22; DCDE#216, Exhibits-O and P. Wetzel was the only one who could designate a group as a STG and place/remove someone from RRL. Wetzel never designated the NGE(s/o) or petitioner as a STG. And No other head of P.A.D.O.C. has ever done so, DCDE#53, p. 23; DCDE#216, Exhibit-K, P; Appellant's Brief (06/15/2022), p. 29-30. Defendant Gilmore was, at all times relevant to this lawsuit, S.C.I.-Greene superintendant in charge of security, programs, activities and operation of S.C.I.-Greene and was part of periodic reviews of petitioner's solitary confinement and RRL, DCDE#53, p. 21-22; DCDE#216, Exhibits-N, P. Gilmore also trained/encouraged S.C.I.-Greene staff to

Confiscate NGE (50%) material (books, etc.) and classify and treat NGE (50%) as a STG. Defendant Longstreth, at all times relevant to this lawsuit, was a S.C.I. - Greene counselor and Restricted Housing unit (RHU) (Solitary confinement) unit manager in charge of RHU operations, maintenance of prisoners' records (Prison File) in RHU and also involved in petitioner's periodic reviews of Solitary confinement and RRL. DCDE # 53, p. 22-23; DCDE #216, Exhibit-P. Wetzel, Gilmore, and Longstreth were aware of S.C.I. - Greene defendants' and other S.C.I. - Greene staff's false and unauthorized STG designation of petitioner and NGE (50%) and restrictions regarding such, refused to remove it or direct their subordinates to remove it, were personally involved, had actual knowledge/acquiescence in violation of petitioner's rights and tolerates past/pending violations of their subordinates. DCDE # 53; DCDE # 214, # 215, DCDE # 49, DCDE #216, Exhibits A, B-BB; Appellant's Brief (06/15/2022), p. 29-30.

15. The court erred/abused discretion by affirming District Court order dismissing claims against defendants in their official capacity.

The court erred/abused discretion by affirming District Court order dismissing claims against defendants in their official capacity, despite fact that petitioner requested relief under RLUIPA, declaratory judgment, and injunctive relief, and defendants were personally involved. Appellant's Brief (06/15/2022), p. 30; DCDE # 53; DCDE # 45; Washington v. Klem, 947 F.3d 272 (3d Cir. 2022); Will v. Mich. Dep't of State Police, 471 U.S. 58 (1989); Johnson v. Wetzel, 2016 WL 5118149 (W.D. Pa. 2016); Pennhurst State School and Hosp. v. Halderman, 465 U.S. 89 (1984). Defendants are not entitled to any kind of immunities.

1/6. The court erred/abused discretion by affirming District court's order dismissing as untimely all claims and defendants Maria Balestrieri, Seth Erickson, Michael Stella concerning the retaliatory, unauthorized, baseless, and false Security Threat Group ("STG") classification of the Nation of Gods and Earths ("NGE"), commonly called "The 5%", and petitioner arising out of defendants' conduct and documents related to such which pre-date 08/31/2016, despite fact that said false classification, defendants' conduct, documents, injuries and their cause weren't revealed to petitioner until 01/25/2018. Then, injured petitioner again on 01/29/2018, and continues to injure petitioner.

The court erred/abused discretion by affirming District court's order dismissing as untimely all claims and defendants Balestrieri (made the false 02/26/2013 STG FCS), Seth Erickson (S.C.T. Greene prison counselor who made/compiled the 07/28/2016 JLEP containing 02/26/2013 STG FCS given to prosecutor for petitioner's 01/29/2018 Resentencing), and Stella (S.C.T. Greene prison counselor who conducted 10/27/2015 Annual Review of petitioner, was given documents proving STG classification is false, was supposed to remove it, but did not. DCDE #12, #53, #216, Exhibits - F, K) concerning false/retaliatory STG classification of NGE (50%) and petitioner arising out of defendants' conduct and documents which pre-date 08/31/2016, Appendix - G, H. Despite fact that said false STG classification, defendants' conduct, documents, injuries to petitioner and their cause weren't revealed to petitioner until 01/25/2018. Then, injured petitioner on 01/29/2018 and continued to injure petitioner. Petitioner filed this lawsuit on 08/31/2018. Appellant's Brief (06/15/2022), p. 30-32; DCDE #12, #53, #216, Exhibit IV; Sameric v. City of Philadelphia, 142

599 (3d Cir. 1998). "untimely" actions considered timely when part of continuing violation. Cowell v. Palmer Twp., 263 F.3d 286 (3d Cir. 2001), S.L.T. Greene defendants and other S.L.T. Greene staff repeatedly claimed NGE (50%) and petitioner were not classified as a STG. Thus, Pennsylvania's Fraudulent concealment doctrine tolls the statute of limitations. DCDE# 12, p. 10-11; DCDE# 53, p. 5-15; DCDE# 216, Exhibits-A, F, G, H, J, K, to Q, Y, Z, AA; Mest v. Cabot Co., 449 F.3d 503 (3d Cir. 2001).

17. The court erred/abused discretion by affirming District court's decision to make credibility determinations and otherwise resolve disputed factual issues in deciding defendants' Motion for Summary Judgment.

The court erred/abused discretion by affirming district court's decision to make credibility determinations and resolving disputed factual issues in deciding Summary Judgment by claiming that petitioner's sworn declaration and statement from mitigation specialist/psychologist were only self-serving assertions and not competent. Appendix-B, p. 8; DCDE# 53; DCDE# 216, Exhibits-VV, p. 16-21, DD, EE, XX to ZZ; McMillan v. Wetzel, 790 Fed. Appx. 455 (3d Cir. 2019); Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986); Petitioner's 06/15/2022 Appellant's Brief, p. 32.

18. The court erred/abused discretion by affirming District court's decision to ignore/overlook Pennsylvania's Fraudulent concealment Doctrine, continuing violations doctrine, and tolling of statute of limitations while prisoner petitioner exhausts administrative remedies.

The court erred/abused discretion by affirming district court ignoring/overlooking Pennsylvania's Fraudulent Concealment doctrine (Mest v. Cabot Co., 449 F.3d 306 (3d cir. 2006)), continuing violation doctrine (Cowell v. Palmer Twp., 263 F.3d 283 (3d cir. 2001)), and tolling of statute of limitations while prisoner's exhaust administrative remedies (Pearson v. Sec'y Dep't of Corr., 775 F.3d 598 (3d cir. 2014); 42 U.S.C. 1983), when considering continuing pattern of S.I.C.I. Greene staff and defendants (S.I.C.I. Greene) falsely classifying/treating NGE(5%) and petitioner as a STG, ~~Confiscating~~/banning NGE(5%) material as STG material, and using false STG classification to negatively influence the court and continue petitioner in solitary confinement/RRL while at same time claiming NGE(5%) and petitioner are not classified as STG. DCDE#12; Appendix-G, p. 19-20; Appellant's Brief (06/15/2022), p. 32; DCDE#53, p. 8, 13-15, 23-24; Appendix-E; Appendix-F; Appendix-D; DCDE#216, Exhibits-A to 22; Appendix-B; Appendix-C.

19. The court erred/abused discretion by affirming District court's decision to ignore law and fact that defendants admitted, and petitioner's exhibits (interrogatories, Admissions, etc.) verified, that S.I.C.I. Greene defendants' and other S.I.C.I. Greene staff's false, baseless, and unauthorized STG classification of NGE(5%) and petitioner was a significant motivating factor in placing/keeping petitioner on RRL and solitary confinement in past and present.

The court erred/abused discretion by affirming District court's decision to ignore fact/law that the defendants

admitted and petitioner's exhibits verified that the false STG classification was a significant motivating factor in placing/keeping petitioner on RRL and excessive solitary confinement. Appellant's Brief (06/15/2022); DCDE#216, Exhibit-T (petitioner continued in solitary confinement based on "STG history"); Exhibits-J, K, F, U to XX; DCDE#38, p. 3-4; DCDE#214; Anderson v. City of Bessemer, AL, 470 U.S. 564 (1985).

20. The court erred/abused discretion by affirming District court's decision to ignore the hundreds of pages of petitioner's Exhibits (verified declarations, affidavits, interrogatories, Admissions, etc) supporting his claims.

The court erred/abused discretion by affirming District court's decision to ignore all of petitioner's exhibits supporting his claims, DCDE#216, Exhibits-A to 22; DCDE#222, #223, #233; Anderson v. City of Bessemer, AL, 470 U.S. 564 (1985); Celotex Corp. v. Catrett, 477 U.S. 317 (1986); 28 U.S.C. 455(b)(1); Liteky v. U.S., 114 S.Ct. 1147 (1994).

21. The court erred/abused discretion by not addressing or responding to issues Number 8, 12, 13, 14, 15, 16, 17, 18, 19, 20, and 21 in petitioner's Brief in support of Appeal.

The court erred/abused discretion by not addressing or responding to issues Number 8, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21 in petitioner's 06/15/2021 Appellant's Brief in support of Appeal to 3rd circuit court. Appellant's 07/31/2022 Brief Reply to Appellee's 07/14/2022 Brief, p. 13; Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986).

Also, attorney (atty.) John Senth (on 12/26/2018), atty. Scott

Bradley (06/29/2020), then atty. Phillip Raymond (on 08/06/2020)
Filed entry of appearance on behalf of defendants
Wetzel, Gilmore, Longstreth, Balestrieri, Stella and Erickson.
On 02/09/2022, petitioner filed Notice of Appeal (docketed
on 02/23/2022) to 3rd circuit court of Appeals. On
02/25/2022, 3rd circuit court gave defendants 14 days
to file "Entry of Appearance". On 03/14/2022, petitioner
only received entry of appearance by Atty. Anthony
Kovalchuk for defendants Wetzel, Gilmore, Balestrieri,
and Longstreth, But petitioner never received entry
of appearance or Brief naming and on behalf of
defendants Stella and Erickson. Thus, defendants Stella
and Erickson should be subject to default and other
sanctions deemed appropriate by the court, 3rd Cir. L.A.R. 46.2;
petitioner's 07/31/2022 Appellant's Reply Brief; Talley v. Wetzel,
2019 W.S. Dist. Lexis 68752 (M.D. Pa. 2019); Collex v. Walsh, 74 F.R.D.
443 (E.D. Pa. 1977).

I declare under penalty of perjury, 28 U.S.C. 1746, the
foregoing is true and correct.

CONCLUSION

This petition for writ of Certiorari should be GRANTED.

Respectfully submitted,
Ricardo Noble
Ricardo Noble
#BX 9351
Suzanne Houtzdale
P.O. Box 1000
Houtzdale, PA 16648

DATE: 03/11/2023