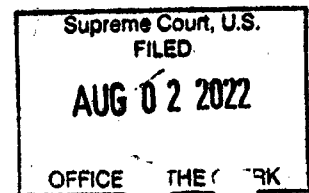


22-7232
No. _____



IN THE
SUPREME COURT OF THE UNITED STATES

DARRELL GUNN - PETITIONER

VS.

ANNUCCI, et al. - RESPONDENT(S)

ON PETITION FOR WRIT OF CERTIORARI TO

U.S. Court of Appeals For the Second Circuit
(NAME OF COURT THAT LAST RULE ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

DARRELL GUNN

(Your Name)

Sing Sing Correctional Facility
354 Hunter Street

(Address)

Ossining, NY 10562

(City, State, Zip Code)

(Phone Number)

ORIGINAL

QUESTION(S) PRESENTED

Whether plaintiff was within the 3 year time limit of 42 U.S.C.A. Section 1997e(a) when he filed Section 1983 claim

Whether the plaintiff's Factual allegations of Anthony Annucci, et. al., On September 16, 17, 18, 2014 assault and battery and lack of care in 2014 and 2015 based on denial of treatment, misdiagnosis and denial of sick call while Green Haven was on lockdown plaintiff now identifies non-time-barred act that occurred within the three years before ~~plaintiff~~ ~~occurs~~. Filed this lawsuit raised a material issue under the Eighth Amendment.

Whether the heat was turned off at Green Haven exposing plaintiff to bitter cold temperatures in Violation of the Eighth Amendment to the United States Constitution.

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:

Anthony J. Annucci

Thomas R. Griffin

Frederick N. Bernstein

Vishwas Bhopale

Sergeant Robert J. Cocuzza

Sergeant Dragoon

Pauline Long-Kutoy, Registered Nurse

CO. Anthony Stuetzle

E. Burnett

Adam AquaFreda C.E.R.T. C.O. #66243

#1 John Doe, Elmira C.E.R.T. C.O.

#2 John Doe, Elmira C.E.R.T. C.O.

#3 John Doe, Elmira C.E.R.T. C.O.

#4 John Doe, Elmira C.E.R.T. C.O.

#5 John Doe, Elmira C.E.R.T. C.O.

#6 John Doe, Elmira C.E.R.T. C.O.

Carl J. Koenigsman

William Lee

Lynn Lilley

Thomas Melville

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.....	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT.....	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A	JUDGMENT
APPENDIX B	U. S. Court OF Appeals 22-56,22-28
APPENDIX C	U. S. Court OF Appeals 22-286
APPENDIX D	U. S. Court OF Appeals 22-56,22-289
APPENDIX E	OPINION and ORDER GUNN v Aqua Fredda
APPENDIX F	Opinion and Order Gunn v. Annucci 2021 WL 189949

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Wilson v. Seiter 501 U.S. 294, 111 S. Ct. 2321
Ortiz v. Jordan 562 U.S. 180, 131 S. Ct. 884
Farmer v. Brennan 511 U.S. 825, 114 S. Ct. 1970
Crawford v. Cuomo 796 F.3d 252 (2nd Cir. 2015)
Boddie v. Schnieder 105 F.3d 857 (2nd Cir. 1997)
Hayes v. Dahike 976 F.3d 259 (2nd Cir. 2020)

STATUTES AND RULES

42 U.S.C.A. Section 1997e(a)

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR A 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 ___ 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 ___ to the petition and is

☒ reported at 2021 WL 1699949; or, 2022 WL 1544698

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

2021 WL 3115488

☐ 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 May 26, 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: _____, 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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Eighth Amendment

42 U.S.C.A. Section 1997 e(a).

STATEMENT OF THE CASE

The Court of Appeals for the Second Circuit consolidated 22-56 and 22-289.

The heat was turned off at Green Haven exposing plaintiff to bitter cold temperatures in violation of the Eighth Amendment to the United States Constitution.

Plaintiff was sexually assaulted several times at Elmira by prison guards and then retaliated by prison guards at both Elmira and Green Haven. During facility lockdown at Green Haven plaintiff was assaulted and battered by prison guards which plaintiff sustained several injuries from the assault and battery, including a concussion, strained neck, shoulder injury, back injury and contusion.

REASONS FOR GRANTING THE PETITION

The decision below squarely conflicts with this court's decision in *Wilson v. Seiter*, 501 U.S. 294, 111 S.Ct. 2321;

Ortiz v. Jordan 562 U.S. 180, 131 S.Ct. 884;

Farmer v. Brennan 511 U.S. 825, 114 S.Ct. 1970;

Crawford v. Cuomo 796 F.3d 252 (2nd Cir. 2015);

Boddie v. Schnieder 105 F.3d 857 (2nd Cir. 1997);

Hayes v. Dahike 976 F.3d 259 (2nd Cir. 2020)

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Darrell Gunn
Darrell Gunn 03B2443

Date: August 1, 2022