

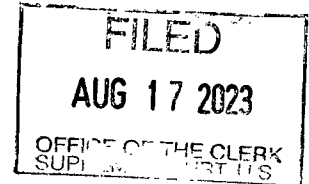
23-5704  
IN THE

ORIGINAL

SUPREME COURT OF THE UNITED STATES

AUGUST TERM 2023

No. 22-1296



GREGORY D. JONES

Petitioner

-against-

DUSTIN BAYLER

Respondent

PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT

Gregory D. Jones

K75759

5835 State Rte 154

Puckneyville, IL 62274

# Table of Contents

|                                                                                                | Page       |
|------------------------------------------------------------------------------------------------|------------|
| Questions Presented                                                                            | i          |
| Parties                                                                                        | i          |
| Table of Authorities                                                                           | iii        |
| Discussions Below                                                                              | ii         |
| Jurisdiction                                                                                   | ii         |
| Constitutional and Statutory Provisions Involved (1 <sup>st</sup> and 14 <sup>th</sup> Amend.) | 3.         |
| Statement of the Case                                                                          | 1., 2.     |
| Basis for Federal Jurisdiction                                                                 | 3.         |
| Reason for Granting the Writ                                                                   | 3.         |
| A. Conflicts with Decisions of Other Courts                                                    | 7.         |
| B. Importance of the Questions Presented                                                       | 3, 4, 5, 6 |
| Conclusion                                                                                     | 10.        |
| Appendix                                                                                       |            |
| Decision of Appeals Court                                                                      |            |
| Order of U.S. District Court                                                                   |            |

## QUESTIONS PRESENTED

1. Did the Appeals Court err by not understanding that the six (actually 5) months between Jones' role in the investigation and the harassments 2 jury would not find causation?
2. Did the Appeals Court err by affirming District Court's allowance of untimely motion for extension of time and dispositive motion in violation of District Court's own Local Rule?
3. Was the Appeals Court misinformed or simply mis-understand nature of claim of campaign of retaliation?
4. Did the Appeals Court err by ignoring analogous new evidence?

## PARTIES

The Petitioner is Gregory D. Jones K75239, a prisoner at Rockneyville Correctional Center formerly a prisoner at Pontiac Correctional. The Respondent is Officer Dustin Bayler, a corrections officer at Pontiac Correctional Center both in Illinois.

## DECISIONS BELOW

The decision of the United States Court of Appeals for the Seventh Circuit was May 25, 2023. The ORDER of the United States District Court for Central District of Illinois was February 1, 2022.

## JURISDICTION

The judgment of the United States Court of Appeals for the SEVENTH Circuit was entered June 16, 2023. No petition for rehearing was filed. A copy of the Court of Appeals judgment is attached as Appendix B. Jurisdiction is conferred by 28 U.S.C. § 1254 (1) [Sp.Ct Rules 36 (4) and 14.1 (e)(iii)] 28 U.S.C. § 2101 (c) Rule 13.1, 3

## CONSTITUTIONAL and STATUTORY PROVISIONS INVOLVED

This case involves the Amendments I and XIV to the United States Constitution, which provides a) freedom of speech  
b) equal protection under the law.

The Amendments are enforced by Title 42, Section 1983.

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

# TABLE OF AUTHORITIES

Page

|                                                                                         |        |
|-----------------------------------------------------------------------------------------|--------|
| Fed. R. Civ. P. Rule 12 (b) (6) . . . . .                                               | 9      |
| Local Rule 6.1 (Fed. Dist. Central of IL) . . . .                                       | 4      |
| Supreme Court Rules 36 (2) 2nd Rule 4.1 (e) (iii) . .                                   | ii     |
| 28 U.S.C § 2101 (c) Rule 13.1, 3 . . . . .                                              | ii     |
| 20 Ill. Adm. Code 504.810 . . . . .                                                     | 9      |
| <u>Henry v Hulett</u> , 969 F.3d 769 (7 <sup>th</sup> Cir. 2020) . . . .                | 4.     |
| <u>McCurry v Kero Logistics Svs., LLC</u> 942 F.3d                                      |        |
| 783, 786-87 (7 <sup>th</sup> Cir 2019) . . . . .                                        | 10.    |
| <u>Turkey v Rednow</u> , 729 F.3d 645, 649 (7 <sup>th</sup> Cir 2013) . .               | 9, 10. |
| <u>Carlson v CSX Transp., Inc.</u> , 758 F.3d 819, 829 (7 <sup>th</sup> Cir 2014) . . . | 7.     |
| Fed. R. EVID. 801 (c), 802 . . . . .                                                    | 8.     |
| <u>Maddox v Lowe</u> , 655 F.3d 709, 722 (7 <sup>th</sup> Cir. 2011) . . . .            | 2.     |

## STATEMENT OF THE CASE

On or about October 5, 2015, I stood in honor as Lt Boland and Officer A. Deal beat Protective Custody Inmate Terrence Jenkins after Jenkins was hand cuffed behind and thrown face down to the floor. Lt Boland and Officer A. Deal sat on Jenkins' upper body as they beat him, suffocating Jenkins as I yelled, "he can't breathe." Then Jenkins stopped moving. Officers Buford and Rayne watched the assault after they helped put Jenkins down. Immediately after my first interview with State Police Defendant Bayler gave me threatening and intimidating glances. Bayler escorted me to and from the interview where the threats from Bayler started. Shortly after the interview with State Police I began experiencing a series of harassments I referred to as "campaign" (see exhibit 04b July 2017). This campaign of retaliations continued at least from March 2016 or immediately after the first interview, to June 2017 and beyond (Shakedowns threats of violence, confiscation of related legal filings, etc) The harassments were documented by grievance. All of which were responded to except the sexual assault of June 9, 2017 by Defendant Bayler and Officer Michael Copeland. The explanations of the grievances are shown in SUPPLEMENTAL (exhibits 04b, 0-4b, A-K2. After false assertions by Judge Long (see # 34 Page 2 of 7), Long was removed. Judge Bruce presided but made rulings based on Judge Long's spurious assessments. Long returned as presiding judge.

Judge Long dismissed the case in 2021, I believe. And in his ORDER tacitly vowed to dismiss again if reversed. The dismissal was primarily based on failure to exhaust. The case was indeed remanded by the Court of Appeals. True to his inference Judge Long dismissed the case again February 1, 2022. Timely Notice of Appeal was filed. Appeal was docketed in the Seventh Circuit after interference by agents of Defendant Bayler, who also hindered discovery (Officers Compton, Herald and others). With the same enthusiasm and vigor exercised in error by the District Court, the Court of Appeals affirmed the District Courts decision. So NO MOTION FOR REHEARING was filed with Court of Appeals. AFFIRMED May 25, 2023. Prison officials were given a fair opportunity to address the sexual assault complaint, Maddox v Lowe, 655 F.3d 709, 722 (7th Cir. 2011). Therefore all remedies were exhausted ~~because~~ they chose not to respond, whereas they (prison officials) responded to 21 other related emergency grievances within four days.

## BASIS FOR FEDERAL JURISDICTION

This case raises 2 question(s) of interpretation of the Due Process Clause of the Fourteenth Amendment to the United States Constitution. The district court had jurisdiction under the general federal question jurisdiction conferred by 28 U.S.C. 1331.

### REASON FOR GRANTING THE WRIT

Should a witness to a murder by law enforcement be repeatedly punished for making statements as if the offense was by a crime boss? The local courts seem to agree that whistleblowers should be allowed to suffer. To conspire to vitiate the credibility of a witness to a crime is criminal in itself. Those who protect the guilty should also be held accountable, in some form or fashion, as well as the guilty. Accountability is too, a crime and ILDOC takes on the qua of a criminal organization when it comes to telling on one of them. Staff encourages those in custody to tell on others in custody and punish those who won't. They call it impeding an investigation. The message ILDOC sends is if you tell on us we will "get" you. Retaliation is the culture of ILDOC. Euphemistically speaking, let's call perceived obstruction "plain error." "Plain error" review is available in civil cases only in the rare situation where a party can demonstrate that: (1) exceptional circumstances exist; (2) substantial rights are affected; and (3) a miscarriage of

justice will occur if plain error review is not applied." Henry v Healett, 969 F.d 769 (2020). Exceptional circumstances apply as witness tampering is excused because the Court did not realize that the unknown alleged ransomware attack on the Office of the Illinois Attorney General's prevented access to files until August 18<sup>th</sup>. The dispositive motion deadline was September 3, 2021. This left sixteen days to get extension motion filed. Additionally, redundancy on hard copy of scheduling order and the expertise of a professional lawyer would've kept awareness of looming deadline. Therefore, violation of the Local Rule 6.1 is clear and inexcusable. The dispositive motion may have been difficult to achieve but a MOTION FOR EXTENSION OF TIME can be done in 30 minutes by a pro-se litigant. (see page 3 of Court ORDER #176 first full paragraph) Because of the backlash and harassments, I will not be a witness <sup>for another</sup> against ILDOC employees again. My 1<sup>st</sup> Amendment Right is vanquished. And a miscarriage of justice is assured when a guilty defendant is shielded from accountability. My life matters to me, my family and friends. After transferring from Pontiac Correctional Center (place where murder and retaliation took place) I was housed on a celling at Western Illinois Correctional Center with the

most aggressive prisoners in Illinois. For an elderly man, such as myself, who is NOT gang affiliated, bodily harm is foreseeable. For weeks I was threatened and harassed by 2 vice-lords. I asked for protective custody. I was ignored by the cellhouse case worker and internal affairs. On November 25, 2021, Thanksgiving Day, I was beaten and flown to Memorial Hospital in Springfield and placed in intensive care. After my release, Lt Jackson, being well aware that the vice-lords had a "hit" on me, tried to force me celled with a Traveling Vice-Lord. Lt Jackson told me to either "take another helicopter ride or get a ticket for refusing housing." I asked again for [protective custody] and a crisis team. Lt Jackson told me no [P.C.] and this is not a crisis, sent me to disciplinary segregation and filed the spurious disciplinary report. The Segregation Sergeant told me that he didn't know what I did but, that he had nothing personal against me. This call came from "higher-up." Please notice Exhibit Cent. 1. Travis Bayler represents the Administrative Review Board at ILDOC Headquarters... Springfield, IL. Travis Bayler is Defendant Dustin Bayler's dad. I was initially housed in the same type environment when

transferred here to Pinckneyville. However, the Internal Affairs  
Lieutenant recognized my vulnerability and had me housed in a  
least aggressive unit and single celled. I still get harassed  
by staff. I have a chance to go home. I need to survive,  
\* THAT'S WHY YOU SHOULD GRANT THE WRIT OF CERTIORARI. \*

As long as I'm in ILDOC I'm at risk. This Court must help  
me endure. Pontiac's Officer Whitney Compton began harassing  
me when this case was dismissed the first time. She said  
I filed a bogus lawsuit. When the case got remanded she  
called me Mr Jones. The witness to Officer Michael  
Copeland's confession, who Judge Long barred from discovery,  
was also threatened. And Simms, who wrote and sent  
the Affidavit to my family - I only hope he's OK.  
(see Exhibit "AA-1") The "Failure To Protect" suit against  
Lt Jackson et al of Western Illinois Correction Center is also  
now in the Central District Case # 23cr 3163

## A. Conflicts with Decisions of Other Courts

The hold of the courts that six months between Jones' role in the investigation and harassments [that] a jury could not find causation is erroneous. First the campaign of retaliation was first raised in SUPPLEMENTAL filed 07-31-17 (see Document 4) and referred to as campaign of retaliations throughout litigation.

Therefore the Appeals Court's referencing the campaign as "new" is spurious assessment and prejudicial. Because Jones repeatedly called the harassment and retaliation a campaign, it was raised in the district court and does not meet the "waived" criterion.

And the evidences support such classification as campaign because staff's effort, including Defendant Baylor's, was "an ongoing pattern of retaliation" even if it came months after the protected activity. Carlson v CSX Transp., Inc., 758 F.3d 819, 829 (7th Cir., 2014).

This fact conflicts with the Appeals Court's affirmation. (see Doc. 00714213239 pg 5) However, the retaliation did not begin months after protected activity but "immediately" after. (see Exhibit 0-3b Doc. 1) Causation is clear and any jury would find it. The importance of the question if the court misunderstood any perceived gap in protected activity and

harassments, (see exhibit O-3b Doc. 1) again is that any jury would see causation, or nexus. Another important issue is that I and others risk our lives to impart to outside entities the shocking practices by staff in penal institutions like Portia. Fostered by the lack of guidance or adherence to guidance from the U.S. Supreme Court, lower courts practice brinkmanship and total disregard for protocol and the safety of us imprisoned.

Additionally, the Appeals Court dismissively referred to the grievances evidence as unsworn ~~therefore~~ inadmissible. However, with each filing, including evidence grievances, a declaration of truth under penalty of perjury was made. (see Exhibit Cert. 2, Cert. 3) And therefore admissible. The lower courts extend the conflict by overlooking the fact of the declaration under penalty of perjury. Fed. R. EVID. 801(c), 802. Jones' deposition testimony bolsters credibility of grievances. Anyway, the Defense's assertion of ransomware attack prevented file access was not sworn but allowed therefore violated K<sup>th</sup> Amendment Equal Protection, (see Doc 007 1421 3239 page 3) The Appeals Court "scur the record for factual disputes." to substantiate an untimely despotic motion but did not "scur the record..." to find that the "campaign" issue

was actually not waived. Again, "Equal Protection." And the Appeals Court erred by referencing that in a prior appeal Jones failed to exhaust the sexual assault allegation. The 20 IL Admin. Code 504, states that when prison officials fail to respond to a grievance it is considered exhausted. (see page 5 of Doc. 00714213239 3<sup>rd</sup> paragraph). Prison officials responded to all other [evidenced] grievances but the sexual assault. (see exhibit O-3) According to the 504, the grievance was exhausted. The record of grievances, the campaign of retaliations, and the following question regarding the error by the Appeals Court for affirming allowance of an untimely despotism motion were all well pled, the courts should have accepted them as true factual allegations and drew all reasonable inferences in Jones' favor but chose to again ignore Federal Rules; Fed. R. Civ. P. Rule 12 (b) (6) 28 U.S.C.A. Turley v Rednour, 729 Fed. 3d 645, 649 (7<sup>th</sup> Cir 2013)

Finally, the Appeals Court conflictually did not consider affidavit of witness who saw Defendant Baylen threaten Jones with bodily harm. This witness's affidavit came to Jones by mail after summary judgment and too should've been evidenced and considered as new evidence. The accompanying affidavit shows I had no

control over the witness's timing or how it came into my possession.

A witness, not able to be barred by the district court, to 2 defendant's adverse actions directly related to the allegations is a reasonable inference and considered in my favor. Turley v Rednour.

Because what In Custody Simms saw in Defendant Baylen's actions bolsters credibility to retaliation allegations, the Appeals Court erred by not at least seeing veracity in the claim. (See Exhibits AA-1 and AA-2)

#### CONCLUSION

The totality of available information screams that Defendant Baylen is guilty of civil right and constitutional rights violation. Evidence also shows a culture of retaliation in IDOC. Sadly, the lower courts and especially the Appellate Court for The Seventh Circuit failed to accurately recount the facts in genuine dispute in light most favorable to Jones - an elderly pro-se litigant of 65 years with barely a 12<sup>th</sup> grade education from 1976. McCurry v Keaco Logistics Sys., LLC, 942 F.3d 783, 786-87 (7<sup>th</sup> Cir. 2019) Please right the wrong.

August 21, 2023

Respectfully Submitted



Gregory D. Jones

K75759