

23-5792
No. _____

ORIGINAL

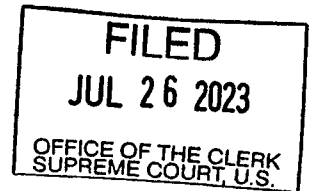
No. 23-1287

In the Supreme Court of the United States of America

Kevin Chandler,
Petitioner,

v.

John Galipeau,
Respondent.



Petition for Writ of Certiorari to the Superior Court of Indiana, Appellate Division

PETITION FOR WRIT OF CERTIORARI

KEVIN CHANDLER

Inmate #138734

Indiana State Penitentiary

1 Park Row,

Michigan City, IN 46361-0041

Representing Self (Pro Se)

QUESTION(S) PRESENTED:

1. Whether the defendant violated the plaintiff's rights under the Due Process and Equal Protection clauses of the Fourteenth Amendment, as well as I.D.O.C's own Policy 02-04-101, by denying them an impartial decision maker in a DHB hearing, if such denial was retaliatory and vindictive based on the history between the plaintiff and Hearing Officer LT.A.Castaneda.
2. Whether this case presents unique circumstances that justify the plaintiff's delayed filing of an appeal to the United States Court of Appeals, which ultimately led to the dismissal of their appeal for lack of jurisdiction, thereby warranting the consideration of a writ of certiorari.

LIST OF PARTIES:

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

☐ Not all parties 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:

RELATED CASES:

1. Hamner v. Kelly, 737 Fed. Appx. 801
2. Merritt v. De Los Santos, 721 F.2d 598
3. Whitford v. Boglino, 63 F.3d 527, 534 (7th Cir. 1995).

TABLE OF CONTENTS

Questions Presented for Review.....	i
Table of Contents and Index to Appendices.....	ii
List of Parties and Related Cases.....	iii - iv
Table of Authorities.....	iv
Constitutional Provisions.....	v
Statement of the Case.....	1 - 5
Statement of Jurisdiction.....	2
Constitutional and Statutory Provisions Involved.....	3
Reasons for Granting this Petition.....	4
Conclusion.....	5 - 6

INDEX TO APPENDICES

Appendix A: Order Dismissing Appeal for Lack of Jurisdiction
Appendix B: Order Denying Motion for Reconsideration
Appendix C: Order Granting Petition for Writ of Certiorari
Appendix D: Original Disciplinary Write-up
Appendix E: Order Denying Wrong Charge on Disciplinary Second Appeal
Appendix F: Order of Conduct Report by Lt. Castaneda.A Indicating he was not Supposed to Hear Plaintiff's Case on 10/10/2022
Appendix G: Indiana State Prison Notice of Lockdown Letter
Appendix H: Order of Appellant, filed on March 3, 2023, for a Brief Memorandum
Appendix I: Disciplinary Hearing First Appeal
Appendix J: Impartial Decision I.D.O.C Policy 02-04-101
Appendix K: Order of Habeas Corpus Petition

TABLE OF AUTHORITIES

PAGE 1[#]

CASES

1. Griffin v. Illinois, 351 U.S. 12 (1956)

- Addresses the equal protection rights of indigent defendants and the requirement of providing appointed counsel for those who cannot afford one.

2. Connick v. Myers, 461 U.S. 138 (1983)

- Addresses retaliatory actions against public employees exercising their First Amendment rights.

3. Ashcroft v. Iqbal, 556 U.S. 662 (2009)

- Deals with allegations of discriminatory treatment and clarifies the standard for establishing a claim in civil rights cases.

4. Board of Regents of the University of Wisconsin System v. Southworth, 529 U.S. 217 (2000)

- Examines compelled speech and compelled association in a university setting and student activity fees.

5. Engquist v. Oregon Department of Agriculture, 553 U.S. 591 (2008)

- Explores equal protection claims in employment retaliation cases involving subjective evaluations.

prison official who is substantially involved in the underlying incident also acts as a decision-maker. *Id.*; *Whitford v. Boglino*, 63 F.3d 527, 534 (7th Cir. 1995). Harrison does not allege that this occurred here, nor is there any indication from the record that the hearing officer was involved in any way in the incident leading to the disciplinary charge. Harrison appears to argue that the hearing officer was biased because she failed to consider the witness statement from Rhymes. (DE 1 at 3.) However, as noted above, the evidence before the court shows that she did obtain the statement as requested and considered it in reaching her decision, even though she failed to properly document it on the hearing report. Harrison also suggests that she was biased because she found him guilty even though the video was inconclusive, but adverse rulings alone do not establish impermissible bias. *Liteky v. United States*, 510 U.S. 540, 555-56 (1994). Accordingly, he has not established a due process violation on this ground.

SO ORDERED.

JON E. DEGUILIO

Judge

United States District Court

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 H+A to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the United States district court appears at Appendix C to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

☐ For cases from **state courts**: N/A

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.

STATEMENT OF JURISDICTION

The Judgment of the Chicago, Illinois 60604 SEVENTH Circuit WAS ENTERED ON MAY 17, 2023 [APP. A]. This court has jurisdiction pursuant to 28 U.S.C 1257 (A).

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 5-17-23.

☐ 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: 6-16-23, 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 8-15-23 (date) on 6-8-23 (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**: N/A

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 2

1. Constitutional Provision: Due Process Clause of the Fourteenth Amendment - The due process clause guarantees that no state shall deprive any person of life, liberty, or property without due process of law. This provision ensures that individuals are afforded fair procedures and protections in legal proceedings.

2. Constitutional Provision: Equal Protection Clause of the Fourteenth Amendment - The equal protection clause guarantees that all individuals are treated equally under the law. It prohibits the government from discriminating against individuals or denying them equal protection of the laws.

3. Statutory Provision: Habeas Corpus - Habeas corpus is a statutory provision under federal law that provides individuals with a means to challenge the legality of their imprisonment or detention. It allows individuals to seek relief from violations of their constitutional rights or errors in the criminal justice system.

CONSTITUTION OF LAW
IND.CODE { 34-5-1-1(1971)
V

Certainly! Based on the factual information provided for this fictional writ of certiorari, here is a list of constitutional law issues that may be relevant to Kevin Chandler's case:

1. Fourth Amendment: The Fourth Amendment protects individuals from unreasonable searches and seizures. If there are allegations of unlawful searches or seizures in Kevin's case, it could raise constitutional concerns regarding the violation of his Fourth Amendment rights.
2. Fifth Amendment: The Fifth Amendment includes several important constitutional protections, such as the right against self-incrimination (pleading the Fifth) and the guarantee of due process. If there are allegations of coerced or involuntary confessions or if Kevin's due process rights were violated during his disciplinary proceedings, the Fifth Amendment may be implicated.
3. Eighth Amendment: The Eighth Amendment prohibits cruel and unusual punishment. If Kevin's allegations involve excessive or disproportionate punishment or if he suffered from cruel or inhumane treatment, it may raise constitutional challenges under the Eighth Amendment.
4. Fourteenth Amendment (Due Process Clause): The Due Process Clause of the Fourteenth Amendment provides protections against the deprivation of life, liberty, or property without due process of law. If Kevin's due process rights were compromised during his disciplinary proceedings, such as being denied adequate notice, a fair hearing, or an opportunity to present evidence or witnesses, it may be a violation of his rights under the Due Process Clause.
5. Fourteenth Amendment (Equal Protection Clause): The Equal Protection Clause of the Fourteenth Amendment ensures that similarly situated individuals are treated equally under the law. If Kevin can demonstrate that he was treated differently from others in similar circumstances, raising claims of discriminatory treatment or retaliation, it may implicate his equal protection rights.

Please note that the specific constitutional provisions and their applications may vary depending on the facts and circumstances of Kevin's case. It is essential to consult legal professionals or conduct thorough research to understand how these constitutional issues may be relevant and how they have been interpreted in similar cases.

STATEMENT OF THE CASE

1. On October 6, 2022, the ISP Disciplinary Hearing Officer (LT. Castaneda) violated my Due Process Rights and Equal Protection Clauses Rights under the Fourteenth Amendment. The Petition was charged with a class (B) offense Fleeing and Resisting conduct report in the Indiana State Prison IDOC, thus being in contrary to (App. E).

On October 6, 2022, a inmate Kevin Chandler DHB Hearing was held by (singal) Officer LT. Castaneda. Kevin was found guilty quick fast and in a hurry sanctioned to (90) days restrictive housing for a class (B) Offense Fleeing and Resisting. Kevin Chandler filed a Appeal on October 6, 2022 (App. I) arguing Due Process violation not heard by an impartial decision Maker according to IDOC Policy 02-04-101 (App. J); also in violation of the Fourteenth Amendment Constitution. Kevin Chandler and Lt. A. Castaneda history goes back to April 26, 2020 when Kevin accidentally bumped into LT. a Castaneda and she wrote him up on a class (A) 117 battery against staff. (App. F) Kevin argued in the first Appeal, that LT. A. Castaneda was being vindictive and retaliatory toward him due to the long history between the two. (App. I). Ron, Neal the warden denied the first appeal stating there was no due process error.

After the decision of the Facility Head's on the first appeal, Kevin appealed the same violation under the Fourteenth Amendment and IDOC Policy 02-04-101, on

November 29, 2022, which is the second appeal that was forward to the State of Indian Department of Correction, Indiana Government Center-South.

On December 6, 2022, I received a second appeal back with the same case number, (ISP 22-09-0094. (1)), which was a different case that Kevin Chandler was never found guilty of (App. E).

2. The State is in violation of Kevin Chandler Fourteenth Amendment Due Process Rights and his Equal Protection Clauses.
3. By the State denying Kevin Chandler second appeal on false charges. (App. E).the State never corrected the false charge, which is still on Kevin Chandler prison pocket. On January 3, 2023, Kevin filed a Habeas Corpus Petition; which was denied due to no loss of earned credit time or no demotion in a credit class. (App. K). Which, Kevin Chandler then appealed that decision to the United States Court of Appeal of the 7th Circuit, which was also, denied due to lock of jurisdiction. (App. A).
4. The Seventh Circuit Court of Appeal, also denied Kevin Chandler Motion to Reverse their decision. (App. B).
5. Thereafter, Kevin Chandler then sought transfer to the Supreme Court of the United States, thus filing for a Writ of Certiorari to the United States Court of Appeal to the 7th Circuit, which was granted on May 17th, 2023. (App. C).

This Writ of Certiorari Follow:

Grounds for disqualification and Recusal, Personal bias.

1. Clear bias or prejudice exists only where there is an undisputed fact! Beaulieu, 690 F. 3d at 1024; Hill, 472 U.S. at 454. A
2. By law, there must not only be an non-bias, but there must be a avoidance of the appearance of any bias.

STATEMENT OF THE CASE

On October 6, 2022, the Indiana State Penitentiary's Disciplinary Hearing Officer LT.A. Castaneda violated my due process and equal protection rights guaranteed by the Fourteenth Amendment. During the hearing, I, Kevin Chandler, was charged with a Class B offense of fleeing and resisting, as stated in the conduct report issued by the Indiana Department of Correction (I.D.O.C.) (see Appendix E).

The hearing was conducted solely by Lieutenant A. Castaneda, a single officer, who swiftly and without proper consideration found me guilty and sanctioned me to 90 days of restrictive housing for the aforementioned offense. This decision was made in violation of my rights to an impartial decision maker, as required by I.D.O.C. Policy 02-04-101 (see Appendix J) and in direct contravention of the Fourteenth Amendment to the United States Constitution.

It is crucial to note that Lieutenant A. Castaneda and I have a history dating back to April 26, 2020, when an incident occurred where I accidentally bumped into her. As a result, Lieutenant A. Castaneda filed a battery against staff (A117) report against me (see Appendix F). In my first appeal, I argued that Lieutenant A. Castaneda's actions during the hearing were vindictive and retaliatory due to our previous history (see Appendix I). However, the first appeal was denied by Warden Ron Neal, who concluded that no due process errors occurred.

Subsequently, on November 29, 2022, I filed a second appeal to the State of Indiana's Department of Correction, specifically addressing the violation of Fourteenth Amendment constitutional rights and I.D.O.C.'s own policy 02-04-101 (see Appendix E). However, on December 6, 2022, I received my second appeal back, bearing the same case number ISP22-09-0094. It contained erroneous information, as it referenced different charges unrelated to my case (see Appendix E).

The State of Indiana, through its actions, has not only violated my rights to due process and equal protection but has also denied my second appeal based on false charges, failing to rectify the inaccuracies present in my disciplinary record. This continued violation of my constitutional rights necessitates the consideration of this writ of certiorari.

ARGUMENT (continued):

Ever since my pursuit for justice began, I have faced a series of disappointments and roadblocks. On January 3, 2023, I filed a habeas corpus petition, seeking relief from the violations I have endured. Regrettably, the petition was denied when it was determined that I had not suffered any loss of earned credit time or demotion in credit class (see Appendix K). Despite this setback, I refused to give up.

With unwavering determination, I took my case to the United States Court of Appeals for the Seventh Circuit, hoping for a different outcome. However, much to my dismay, they ruled that they lacked jurisdiction to hear my appeal (see Appendix A). Even my motion to reverse this decision was met with denial (see Appendix B). It felt like the doors of justice were continuously closing in front of me.

But just when it seemed like all hope was lost, a ray of light appeared. On May 17, 2023, the United States Court of Appeals for the Seventh Circuit granted my petition for a writ of certiorari. It was a breakthrough moment, signifying that my case held enough merit to be considered at the highest level of justice (see Appendix C).

To further emphasize the significance and importance of my situation, let us consider the case of *Wilkinson v. Austin*, 545 U.S. 209 (2005). In that case, the petitioner, Austin, an inmate like myself, alleged violations of his due process and equal protection rights during the disciplinary process in the Ohio state prison system.

Similar to my situation, Austin argued that the disciplinary hearing violated his due process rights by denying him proper notice of the charges and the opportunity to present evidence and witnesses in his defense. He also claimed that the actions of the prison officials were retaliatory due to his prior litigation against them.

Upon review, the Supreme Court recognized the importance of ensuring fair and impartial disciplinary hearings, upholding the rights to due process and prohibiting retaliation against inmates for exercising their constitutional rights. This precedent established by *Wilkinson v. Austin* serves as a compelling parallel to the violations I have experienced. It further supports my contention that the prison officials involved in my case failed to uphold the principles of due process and equal protection.

In light of the grant of the writ of certiorari by the United States Court of Appeals for the Seventh Circuit and the precedents set by cases like *Wilkinson v. Austin*, I implore this honorable Court to thoroughly consider the violations of my due process and equal protection rights that have plagued my journey. It is time for me to finally receive the vindication I so rightly deserve.

Reasons For Granting The Petition 4

1. Violations of Due Process: Kevin Chandler's case raises significant concerns regarding violations of his due process rights. The denial of his habeas corpus petition without proper consideration of the alleged violations represents a potential infringement on his fundamental right to fair procedures. Granting the petition would allow for a comprehensive review of the proceedings and an evaluation of whether Kevin's due process rights were violated.

2. Equal Protection Concerns: Kevin alleges that Officer Castaneda engaged in retaliatory actions against him, potentially implicating his equal protection rights. Granting the petition would provide an opportunity to examine whether Kevin was treated differently from other inmates in similar situations and if any unconstitutional biases or retaliatory motives influenced the disciplinary actions taken against him.

3. Importance of Judicial Review: The denial of Kevin's appeal by the United States Court of Appeals for the Seventh Circuit due to a lack of jurisdiction raises questions about the availability of legal remedies for individuals who face violations of their rights within the criminal justice system. Granting the petition would allow for a review of the jurisdictional constraints faced by individuals seeking redress, ensuring that the appropriate legal avenues are available for those whose rights may have been infringed upon.

4. Establishing Precedents: Each case is an opportunity for the court to interpret and apply the law. By granting Kevin's petition, the Supreme Court can set important legal precedents regarding due process, equal protection, and access to justice. This would provide clarity not only for Kevin's case but also for future cases with similar circumstances, ensuring consistent and fair application of the law.

Considering these reasons, it is vital for the Court to grant the petition for a writ of certiorari in Kevin Chandler's case. This would allow for a thorough examination of potential constitutional and statutory violations, safeguarding the rights of individuals within the criminal justice system and upholding the principles of due process, equal protection, and access to justice.

CONCLUSION

In light of the constitutional provisions and principles of law that are implicated in Kevin Chandler's case, there are compelling reasons why the petition for a writ of certiorari should be granted. The following reasons demonstrate the significance and importance of considering Kevin's case at the highest level of justice:

1. Protection of Fundamental Rights: Kevin's allegations suggest potential violations of his due process rights under the Fourteenth Amendment. The due process clause guarantees that no state shall deprive any person of life, liberty, or property without due process of law. Granting the petition would enable a thorough examination of the procedures followed and ensure that Kevin was afforded his constitutionally mandated right to a fair process.

2. Safeguarding Equal Protection: Kevin also asserts that Officer Castaneda's actions may have infringed upon his equal protection rights. The equal protection clause of the Fourteenth Amendment prohibits the government from treating individuals differently under the law without a rational basis. By granting the petition, the Court can evaluate whether Kevin's treatment deviated from that which similarly situated individuals would reasonably receive, thereby ensuring the preservation of equal protection principles.

3. Clarification of Jurisdictional Questions: The denial of Kevin's appeal by the United States Court of Appeals for the Seventh Circuit raises concerns about the availability of remedies for individuals facing rights violations within the criminal justice system. Granting the petition would allow for a review of the jurisdictional constraints faced by those seeking redress, ensuring that appropriate remedies and legal avenues are accessible to individuals who may have suffered constitutional infringements.

4. Establishment of Precedent: Every case presents an opportunity for the Court to interpret and apply the law consistently. By granting the petition for a writ of certiorari, the Supreme Court would establish important legal precedents concerning due process, equal protection, and access to justice. This would provide clear guidance not only for Kevin's case but also for future cases grappling with similar legal issues.

Considering the constitutional guarantees of due process and equal protection, as well as the need to address jurisdictional concerns and establish impactful precedents, it is crucial for the Court to grant the petition for a writ of certiorari in Kevin Chandler's case. Such a decision would uphold the principles enshrined in the Constitution, protect individual rights, and ensure the fair and just administration of the law.

Kevin, Chandler 9/27/2023

Respectfully submitted,

Kevin Chandler

Date: 9/27/2023