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No. 23A162

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FILED

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OFFICE OF THE CLERK  
SUPREME COURT, U.S.

ARNOLD ANTHONY CARY

— PETITIONER

(Your Name)

vs.

DEAN WILLIAMS, et al

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Arnold Anthony Cary, CDC No. 136835

(Your Name)

12101 Highway County Road 61

(Address)

Sterling, Colorado 80751

(City, State, Zip Code)

(970) 521-5010

(Phone Number)

### QUESTION(S) PRESENTED

Petitioner provides three questions to the Court for review:

1. A constitutional federal question: Did CDOC violate Cary's due process and equal protection, provided in the Fourteenth and Eighth Amendments, regarding CDOC facilities drinking water that is contaminated with toxic uranium?
2. A constitutional state question: Did CDOC violate Cary's 5th Amendment right by depriving him of life, property without due process of law? And, not providing adequate medical care, and allowing the theft of his legal books?
3. In a related case, Cary v. Goodrich et al., Cary was stimulated to amend this action after defendant's counsel offered to settle this action Cary v. Goodrich et al., Case No. 2020-cv-36 in the District Court, Crowley County, Colorado. Plaintiff brought fourth a additional defendant and evidence showing the corruption within CDOC policies and practices. This action shows the extent that CDOC has gone through to cover-up Cary's legal actions by confiscating Cary's legal books. This brings question to the on going threat of toxic uranium drinking water throughout the entire Colorado prison system. This is a constitutional question that should be answered by this Honorable Court.

## TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
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## OTHER

NONE

IN THE  
SUPREME COURT OF THE UNITED STATES  
  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☒ reported at May 12, 2012, Order and Judgment; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

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

☒ reported at June 15, 2022, Notice of Removal; 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 C to the petition and is

☒ reported at March 30, 2022; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the Logan County Combined court appears at Appendix D to the petition and is

☒ reported at June 15, 2022, Notice of Removal; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The clauses in the following provisions stipulate the principles developed by the courts for interpreting statutes related to the constitutional action.

### CONSTITUTION OF THE STATE OF COLORADO

Section 25. Due process of law. No person shall be deprived of life, liberty or property, without due process of law

Cross references: For inalienable rights see Section 3.

Section 3. Inalienable rights. All persons have certain natural essential and inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties of acquiring, possessing and protecting property; and of seeking and obtaining their safety and happiness.

### CONSTITUTION OF THE UNITED STATES OF AMERICA

Civil liability-Under Title 42 Chapter 21, subchapter 1, §1983 of the United States Code (commonly referred to as a "§1983" action) any person who, under pretense of law, deprives another of any constitutional right, "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

Arnold Anthony Cary ("Cary"), Plaintiff/Petitioner, Pro se, objected to the United States Court of Appeals for the Tenth Circuit affirming the United States District Court Tenth Circuit dismissal of Cary's objection to the dismissal of Cary's Opening Brief in the United States Court of Appeals, based on Cary's 42 U.S.C. §1983 lawsuit.

The above mentioned courts concluded that adjudication was legally resolved, and citing the following as reasons for dismissal: the doctrine of law res judicata, collateral estoppel, and failure to allege facts how the Colorado Department of Correction (CDOC) policy or practice subject Cary to cruel and unusual punishment.

The courts abused their discretion by not exercising sound reasonable and legal decisions, and not allowing any facts to be brought forth in fact-finding to determine the truth, forcing Cary to live in antiquated facilities that put his health at risk, rises to an 8th Amendment violation-malicious infliction of cruel and unusual punishment. These courts totally miss the theme and dialogue of this action. The facts will show that CDOC failed to provide medical care to Cary previously diagnosed by a physician, and failed to treat Cary's illnesses and chronic pain.

Uranium contamination was brought forth in Cary's §1983 suit, Case No. 14-cv-00411-PAB-NYW, in the United States District Court and Cary's Opening Brief Case No. 22-1404 in the Court of Appeals

for the Tenth Circuit to show the court the source of injuries, and not to exploit the contamination water issue, but only to show the cause of Cary's illnesses.

The United States Court of Appeals For The Tenth Circuit, Judges Tymkovick, McHugh, and Carson's examination of Cary's Opening Brief and appellate record determine that judgment is not binding precedent, except under the doctrine of law of the case, res judicata, and collateral estoppel, referring to the toxic water action U.S.C. §1983, Case No. 14-cv-00411-PAB-NYW which concluded in a dismissal "WITHOUT PREJUDICE," dated August 3, 2015 allowing Cary judicial-proceeding privilege to adjudicate his claim.

Cary has been singled out, chiefly because of his veracity in exercising the truth about the toxic uranium drinking water plaguing the majority of the Colorado Prison System, which obtains its water from two sources; the Arkansas River, via the Cotter Uranium Mill, and an aquifer passing through an underground deposit of uranium interring Sterling, Colorado water system, which is Sterling Correctional Facilities (SCF) source of water.

It is important to understand that even though CDOC claims to have cured the toxic water problem, the facts will show that the radioactive materials that contaminates the SCF and Canon City Prison System water supplies cannot be removed by any sort of filtering process; since attempting to do so would simply tend to make the filters themselves radioactive; which then through a process of activation, would tend to make radioactive any trace impurities passing through the filters. There is no filter

material available that could filter out the radioactive decay from the much larger water molecules.

This complaint is a Civil Rights action filed by Cary for damages and injunctive relief, alleging that for years defendants are deliberately indifferent to Cary's medical illnesses resulting from the toxic water.

This type of litigation could be devastating to CDOC, resulting in repercussions for CDOC facilities where contamination levels are above safe required federal limits. This is the reason why the Colorado Judicial System is ruling against every one of the legal actions filed by Cary. It is in CDOC defendants' self-interest to squash Cary's water complaints, which is tantamount to CDOC's legitimize, but they clearly scrambled to cover-up the toxic living conditions as described in SCF's inter-facility e-mails, exposing their collusion (See Appendix A-F).

Written mandates from Governor Ritter, dated 12/25/2008, and followed-up with a second mandate from Governor Hickenlooper state the Sterling, Colorado water system is contaminated with uranium (See Appendix A-F). Cary filed a \$1983 suit including the governors mandate reports. Soon thereafter, SCF declared an emergency (See Appendix A-F), and invoked a provision to transport alternate drinking water, packaged at Four Mile Correctional Dairy Farm, in Canon City. This water is also contaminated from the Cotter Uranium Mill's retention ponds. These ponds leachates uranium into the Arkansas River contaminating the drinking water in all prison facilities nestled along the Arkansas River.



Throughout Cary's 17 years of incarceration he has been moved 9 times, this practice is called diesel therapy, out-of-sight, out-of-mind, in order to stop Cary's legal actions. This has caused a complete indifference to physicians diagnostic evaluation treatment, resulting in extreme pain, as Cary's medical conditions worsen and advance into cancer and vision loss.

Cary is pro se, and cannot articulate the law as a trained attorney, and doesn't have the financial ability to obtain the service of counsel. Cary requested from the Colorado Court of Appeals numerous times for a pro bono attorney to present his issues, but received denials. This litigation presents complex medical issues to Cary's superficial and deep structure of Cary's body, and significant legal issues, hopefully this action will have a change effect on CDOC's medical negligent practices.

The Colorado Court of Appeals review of Cary's administrative records, plus any additional documentation regarding Cary's uranium litigation, resulting in the courts decision to invalidate Cary's actions as being legally frivolous. The court's review of the lower courts decisions failed on the legal findings of facts.

Cary prays this Honorable Court will find there are substantial facts that a petition for writ of certiorari if granted will show that CDOC/SCF is not providing proper medical care.

## I. INTRODUCTION

1. CDOC intentionally and systematically delays and denies necessary medical care to Cary's chronic illnesses, causing

extreme pain and suffering that should be managed according to CDOC's Administrative Regulation (AR) 700-30A in order to provide treatment for the following: Actinic Keratos (premalignant) glaucoma, liver enlargement, diverticulitis, edema, pulmonary fibrosis, breast carcinomas (cancer), bone lesion (bone pain), and spinal cord degeneration.

## II. DELIBERATE INDIFFERENCE/POLICY AND PRACTICES

2. Sterling Correctional Facility (SCF) medical took a biopsies of Cary's arms, revealed positive for Actinic Keratos (premalignant), which will progress into squamous cell carcinomas, if not treated. CDOC discontinued Cary's special medication cream at Crowley County Correctional Facility (CCCF).
3. Cary currently is experiencing blurred vision. An optometrist at CCCF, diagnosed Cary with cataracts and sent him to Rocky Mountain Eye Center, Inc., in Pueblo, Colorado where they also diagnosed him with "Narrow-Angle-Glaucoma." Three months later after arriving at SCF medical sent Cary to Greeley, Colorado to see an eye specialist, whose prognosis was the same "Narrow-Angle-Glaucoma." However, CDOC would not approve the required operation. This condition left untreated will result into severe and permanent vision loss.
4. Cary suffers from extreme stabbing pain in his liver, radio-graphy reveal an enlargement of his liver, pushing his right lung upward. Superficial veins protruding from his abdomen and thorax are dilated reflecting the intrahepatic obstruction to portal blood flow, forming hemangiomas, which have ruptured causing massive bleeding resulting into a transfusion.

5. On January 29, 2019 Cary was sent to Pueblo Endoscopy L.L.C., at Saint Mary Corwin Hospital in Pueblo, Colorado. There a colonoscopy found diverticulosis in the sigmoid colon, in the descending colon, in the transverse colon, and in the ascending colon.

6. Recently, at SCF, Cary was bleeding from his rectum profusely but SCF guards would not allow him to go medical. One and half hours later Cary was examined by medical, they arranged for a colonoscopy examination three weeks later. This colonoscopy team found out that Cary had diverticulosis in every segment of his colon they stopped, and did not proceed further.

7. Chronic lower extremity edema exist in Cary's legs and ankles Cary left leg swelled three times its normal size; he was taken to Banner Medical Health Center in Sterling, Colorado where an ultrasound was performed on his leg. The hospital emergency room attendants, and SCF's Doctor Jerome Long M.D., refused to comment on his leg condition. Cary researched his self-med drug amlodipine revealed that this drug will cause swelling. Cary question Dr. Long M.D., regarding amlodipine, he just threw his arms in the air, and said, "I don't know." Cary ask Dr. Long to read the medical information on this medication, but he just walked away!

8. Cary was diagnosed with pulmonary fibrosis, scaring both bottom lobed of his lungs. Pulmonary function studies reveal reduced maximum voluntary ventilation. Cary is required to take 24/7 oxygen therapy in order to maintain his blood oxygen level above 90%. Cary neither smokes, drinks, or does drugs, other than what is prescribed by a doctor.

9. Cary complained of breast pain at Fremont Correctional Facility (FCF). Physician Assistant Juan C. Herraiez PA-C examined Cary and found a mass under his nipple/areola, and ordered an ultrasound, revealing a hard ill-defined mass. Soon thereafter, Cary was moved to Crowley County Correctional Facility (CCCF), and Doctor Lewis Cabiling M.D., examined Cary's right nipple/areola, and said, "the lesion on your areola is carcinomas, and a biopsy is needed to confirm." CDOC would not allow the biopsy.

10. At FCF, Cary experienced extreme bone pain in his femur, hip, and shoulder. Radiography revealed a flame shape anomaly on his right femur. Cary ask the x-ray technician "what is that" she said, "it is a lesion." Cary ask the Nurse III in medical about the lesion, she said, "who told you that." I told her the x-ray technician. Soon thereafter, the x-ray technician was fired! No more information was offered by CDOC medical, Cary continues to experience extreme bone pain, and CDOC medical staff will not respond to Cary's medical kites regarding extreme pain.

11. Cary was diagnosed with spinal cord degeneration disease, causing spinal cord compression resulting from edema, hemorrhage, and ischemia (deficiency of blood supply) causing extreme pain. Generally, bone radiographs will show evidence of vertebral bone or pedicle destruction by cancer, but CDOC medical is very tight lipped about catastrophe findings. When there are neurologic findings suggesting spinal cord compression, an emergency MRI should be obtained; but this procedure, Cary was told is very

expensive, and hence was not approved by CDOC.

12. Cary requested, from SCF medical staff on numerous written medical kites, without any responds. SCF's Physician Assistant Michael Craig Allen, PC-C responded to Cary's query in passing. "I will see you in sixty days," but never followed through. Also prior to Dr. Long M.D., leaving his employment at SCF, he told Cary, "your medical treatment is controlled by CDOC's home office in Colorado Springs, and I cannot change that I am just following orders."

13. Paragraphs 1-12 above describe Cary's medical condition and noted his relentless pursuit for medical care, but after CDOC sent Cary for evaluations, medical simply did not follow through with any procedure, because Cary's medical conditions would expose the source of the problem-toxic environmental living conditions.

14. Inadequate medical evaluations and treatment resulted in this Case in Point: SCF inmate Mark Edwards requested a medical emergency regarding a headache and blurred vision. SCF medical sent Mr. Edwards under guard to Banner Medical Health Center in Sterling, Colorado. There the hospital wanted to admit Mr. Edwards, but the SCF guard could not stay as a over-night guard with Mr. Edwards, so the guard and hospital staff decided to send Mr. Edwards back to SCF. Upon arrival Mr. Edwards walked into SCF's infirmary and fell to the floor and died from an aneurism, it was reported by staff that you could hear his head expold!

### III. CDOC MISSION STATEMENT

15. "The mission of the Colorado Department of Corrections is to protect the general public through effective management of offenders in controlled environments which are efficient safe, humane and appropriately secure, while also providing meaningful work self-improvement opportunities assist offenders with community reintregation."

### IV. CDOC CLINICAL SERVICES MISSION STATEMENT

16. "To be an innovative leader in the provision of correctional health care, and in the rehabilitation of offenders, enhancing the public health and safety by successfully reintegrating offenders back into society, and achieving clinical quality, which being both respectful of the patients-provider relationship and being highly cost effective."

### V. MALPRACTICE

17. CDOC provides grossly inadequate health care; the fundamental problem being the lack of appropriate qualified staff. By design, health care decisions in CDOC system are pushed down to the lowest possible level, physician and nurses are practicing poorly, far outside the scope of their license requirements. Recently, at SCF it was reported that nurses were quitting, and only three nurses remain to administer to 2500 inmates at SCF as of June 18, 2023.

18. SCF's medical staff, including defendants, have failed to respond to petitioners serious medical needs. Under the Eighth Amendment the petitioner is entitled to medical care for "serious medical needs." A serious medical need is one that has been

diagnosed by a physician and mandated treatment, or one that is so obvious that even a lay person easily recognize the necessity for a doctor's attention.

19. Courts usually agree that a prisoner can show a serious medical need if the "failure to treat a prisoner's condition could result in further significant injury or the unnecessary and wanton infliction of pain." Estelle, 429 U.S. at 1041; Jeff v. Penner, 439 F.3d 1091, 1096 (9th Cir. 2006). In other words, if a doctor says you need treatment, or your needs is obvious, that it is probably a "serious medical need."

20. There is a clear pattern of failure by nurses to complete their nursing assessment by not taking inmate patients reports seriously, failure to recognize dangerous symptoms. Too often SCF nurses simply send inmates back to their housing unit, telling them to submit another sick call request if the symptoms worsen. As a result, inmate patients receive inadequate treatment amounting to cruel and unusual punishment, resulting in premature deaths.

21. Cary is labeled as a pariah at SCF, in their way of thinking, only because Cary calls it like it is! Cary is singled out because he has exercised his constitutionally protected rights.

22. Hospital and CDOC clinical records are available for hearing or oral argument. The following is a list of Cary's recorded damages:

1. advanced lower lumbar degenerative disc disease.
2. enlargement of liver.

3. narrow-angle-glaucoma (vision loss).
4. diverticulosis (colon).
5. pulmonary fibrosis (lungs).
6. actinic keratoes (arms, squamos cell carcinoma).
7. chronic lower edema (swelling of legs and ankles).
8. breast cancer (carcinoma).
9. bone lesions (bone marrow disorder).


All the above conditions are a direct result of radiation contamination. CDOC medical has allowed Cary's illnesses to be diagnosed, but not treated, causing further deterioration of Cary's health, violating his Fourteenth Amendment rights to life, liberty or property, without due process of law.

#### DECLARATION UNDER PENALTY OF PERJURY

Arnold Anthony Cary, declares under penalty of perjury that the information herein the STATEMENT OF THE CASE is true and correct to the best of my knowledge. See U.S.C. §§1746 and 1621.

Executed in Sterling, Colorado on October 24, 2023.

Respectfully submitted,

  
Arnold Anthony Cary  
CDOC No. 136835  
SCF/3 C-111  
P.O. Box 6000  
Sterling, Colorado 80751



## REASON FOR GRANTING THE PETITION

1. The lower courts obstructed the petitioner by preventing facts or fact-finding regarding the cause of his illnesses. This is an obstruction through conspiracy; and
2. The conspiracy of silence at SCF is a institutional fundamental structured norm. It is stated in SCF's e-mails, an agreement to remain silence among those who know something above these type of disclosures that would be damaging, harmful, or against CDOC/SCF best interest; and
3. Petitioner request that a qualified doctor a conflict-free medical facility with experience in disorders related to environmental toxins and radiation exposure to evaluate petitioner's medical conditions; and
4. Petitioner request that this action be moved to a court without bias, and with jurisdiction, where a Case Management Conference can be schedule for a trial setting; and
5. Order a pro bono counsel to be appointed to represent the petitioner; and
6. Order CDOC defendants and their medical staff to comply with the Administrative Regulations (AR) regarding proper medical care for CDOC inmates; and
7. Prohibit defendants, their agents, employees, successors in interest, and all persons in active concert or participation with them from performing acts of arrogance of power, such as harassing, threatening, punishing, or retaliating in any way against petitioner because he filed this action; and

8. The above gives reason to correct the unconscionable acts resulting in irreparable damage to petitioner's body; and

9. It is a shame that these issues of inadequate medical care and uranium contamination drinking water force upon the incarcerated had to progress to the United States Supreme Court. It is petitioner's opinion that the judicial system in Colorado is broken, and that common sense would go along way in solving these problems. Petitioner is bring these issues before this court in order to cure injustice brought upon the incarcerated and their families in Colorado. It is obvious that CDOC is not willing to cure the problems of inadequate medical care and hazardous environmental living conditions.

#### CONCLUSION

Petitioner request from this Honorable Court to compel through a writ of mandamus a reversal of the above mention court judgment; and

The petition for writ of certiorari should be granted.

Respectfully submitted,

  
Arnold Anthony Cary

Date: October 24, 2023

DECLARATION OF COMPLIANCE

I, Arnold Anthony Cary, hereby certify that the total number of pages I am submitting as the petitioner for the Petition For A Writ Of Certiorari is 18 pages, with an accompanying 41 pages of Appendix.

I, certify that I have counted the number of words in the Petition For A Writ Of Certiorari is a total of 3,535, which is less than the limit of 9000 words.

This Declaration is in compliance wit 28 U.S.C. §1746.

Done this 30th day of November, Two Thousand and Twenty Three

Respectfully submitted,

Arnold Anthony Cary  
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CDOC No. 136835  
SCF/3 C-111  
P.O. Box 6000  
Sterling, Colorado 80751