

IN THE
SUPREME COURT OF THE UNITED STATES
Case No. 23-6847

TYRONE ANTHONY BELL
Appellant

-v-

HEIDI WASHINGTON, et. al.
Defendants

PETITION FOR REHEARING

Tyrone-Anthony: Bell, Appellant, presents this petition for rehearing pursuant to SCt Rule 44 (2), of the above-entitled cause, and, in support of it, respectfully shows:

Grounds For Rehearing

A rehearing of the decision in this matter is in the interest of justice, because the Court has not addressed how Counter v Colorado 143 SCt 2106, 2114 (2023) is to be applied to incarcerated individuals:

1.] On 4-15-24, this Court denied Mr. Bell's petition for writ of certiorari.

2.] There was no principal grounds cited for the denial of the writ of certiorari where Mr. Bell raised a conflict of decisions amongst the U.S Court of Appeals circuits, on how to apply the binding precedence of both Ross v Blake 135 SCt 1850, 1859-60 (2016); Counterman v Colorado 143 SCt 2106, 2114 (2023).

3.] There was no principal grounds cited for the denial of the writ of certiorari where Mr. Bell raised a misapplication of authority issued by the decision of the U.S. Court of Appeals for the Sixth Circuit Court.

4.] The principal grounds cited in the U.S. Court of Appeals for the Sixth Circuit per curiam opinion in Bell v Washington was that the crucial issues had been fully and completely determined by the ruling in Bell v Washington 2023 US

App Lexis 25997 (6th Cir 2023).

5.] Petitioner was not granted any opportunity by this Court to distinguish this case from Counterman v Colorado, id. or to suggest why they should not be determined by a different rule of law.

6.] This case contains several crucial factual and procedural distinctions in relation with Counterman that warrant its determination by this Court.

a. first, whether a true threat may exist if it is one made to an incarcerated individual by a correctional staff member;

b. second, whether a true threat would deter a person of ordinary firmness from continuing to engage in the First Amendment protective conduct, if such engagement would lead to prolonged segregation;

c. third, when does a true threat exist when it involves incarcerated individuals.

7.] In earlier decision like Ross the Court had noted that cases with these factual and procedural distinctions merit exception to administrative remedy exhaustion, "when prison administrators thwart inmates from taking advantage of grievance process through machination, misrepresentation, or intimidation." Id. at 1860, this decision stated was controlling in this case. When the U.S. Court of Appeals for the Sixth Circuit made a decision that the statement made by C.O. Weems was not threatening and the statement made by C.O. West was not a misrepresentation of material facts which caused Appellant to abandon continuing in his First Amendment protective conduct of redress a grievance.

8.] A rehearing tightly and squarely focused on these distinctions between how this Court will make Counterman applicable to incarcerated individuals, and whether these distinctions merit a different rule of law, or the same treatment, is a matter of fundamental fairness and importance to petitioner and other similarly situated incarcerated individuals, and would not duly burden this Court.

CONCLUSION

For the reasons just stated, Tyrone-Anthony: Bell, Appellant, urges that this petition for Rehearing be GRANTED, and that this Honorable Court will allow his attorney Kama Patel to present oral arguments to aid in futher consideration in GRANTING this Petition For Certiorari Rehearing. That without this court granting the petition for rehearing the U.S. Court of Appeals will not have any uniformity as to how they are suppose to apply the principals of Counterman issue in a prison setting. The U.S. Court of Appeals needs the guiding hands and instruction of this Court. It is vital that this Court issue a binding order which instructs that lower court on how to apply this Court's holdings in Counterman.

Certificate Of Good Faith

I, Kama Patel, counsel for Tyrone-Anthony: Bell, Appellant, certify that this Petition For Rehearing is presented in Good Faith and not for delay and that it is restricted to the grounds specified in Supreme Court Rule 44 of the Rules of this Court.

Certification Of Compliance With Word Limits

As required by Supreme Court Rule 33.1(h), I certify that the document contains _____ number of words, excluding that parts of the document that are exempted by Supreme Court Rule 33.1(d).

I declare under the penalty of perjury that the foregoing is true and correct, 42 USC § 1746.

Prays For Relief

Appellant prays that this Honorable Court grants this petition for rehearing and issue a ruling on the matter as to how Counterman is to be applied in a prison settings. So that the Court may issue an Order which binding precedence states the following:

- 1.] Under the Fourteenth Amendment prisoners shall receive the Equal Protection

of the laws;

- 2.] That a True Threat is a True Threat no matter the geographical location of the receiver, if the person receives a Threat as True and reacts in accordance with a Threat True threat whether the receiver is a free person or incarcerated;
- 3.] This Court shall instruct the lower courts to enforce the powers and protections of Counterman v Colorado with an even hand to the free and incarcerated persons alike.

Respectfully Submitted,



Tyrone-Anthony Bell
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Date: May 9, 2024