

ORIGINAL

No. 23-6877  
IN THE

SUPREME COURT OF THE UNITED STATES

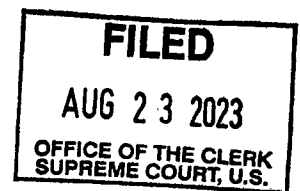
OMAR S. FOLK

Petitioner,

v.

Bop, Employees and Medical Staff, et al.,

Respondent.



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ON PETITION FOR WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

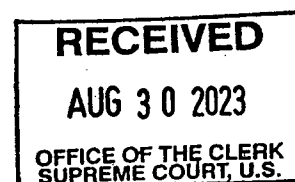
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PETITION FOR A WRIT OF CERTIORARI

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### QUESTION PRESENTED

1. Whether the Third Circuit Erred in Summarily Affirmed District Court Dismissal on Plaintiff's Third Amend Complaint Doc. 196 before his original Cert. was final in Supreme Court?
2. Whether the Third Circuit Erred in Summarily Affirmed District Court Not Addressing Doc. 197 Motion For Leave A "COM" before his original Cert. was Final in Supreme Court?

## PARTIES TO PROCEEDING

The parties to the proceeding in the Court whose judgment is sought to be reviewed are as follow:

1. FBOP,etal, United States
2. Omar S. Folk

## RELATED CASES

Police & Fire Ret. Sys. v. IndyMac MBS, Inc., 721 F.3d 95, 109 (2d Cir. 2013); Bryant v. US, 768 F.3d 1378, 1383 n.10(11 Cir. 2014); First Horizon Asset Sec. Inc., 291 F. Supp. 3d at 371-72,374(2018 U.S. Dist. 34396 SD NY Mar. 2, 2018); Fencorp, Co. v. Ohio Ky. Oil Corp., 675 F.3d 933, 940-41(6th Cir. 2012); Baughn v. Eli Lilly & Co., 356 F. Supp. 2d 1166, 1173, 1177(D. Kan. 2005);See(Crostley v. Lamar County, 717 F.3d 410, 421(5th Cir. 2013); CTS Corp. v. Walburger, 573 U.S. 1,9 134 S.Ct. 2175, 189 L.Ed. 2d 62(2014).

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No. 2023-1000

IN THE

SUPREME COURT OF THE UNITED STATES

Aug. TERM, 2023

OMAR S. FOLK

Petitioner,

v.

BOP, Employees and Medical Staff, et al

Respondent.

PETITION FOR A WRIT OF CERTIORARI

Petitioner Omar S. Folk respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Third Circuit in this case.

DECISION BELOW

The United States Court of Appeals for the Third Circuit affirmed Petitioner's District Court dismissing his claims and ruling on several motions with Non Precedential Opinion issued upon, May 25, 2023. Petitioner's Appendix ("Pet. Appx. A"). District Denied ("Pet. Appx. B") On 10-25-22.

JURISDICTION

The United States District Court For the Middle District of Pennsylvania (MD. PA. No. 3:cv-18-2252) exercised jurisdiction over the federal criminal case pursuant to 18 U.S.C. § 3231. The Third Circuit of Appeals (No. 22-3078) had jurisdiction pursuant to 28 U.S.C. § 1291 and 18 U.S.C. § 3742(a). The United States Court of Appeals for the Third Circuit entered judgment on May. 25, 2023 Pet. Appx. A. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1). This

RELEVANT STATUTORY PROVISIONS

The ~~Eight~~ Amendment to the Constitution of the United States provides:

Excessive Bail Shall not be required, nor excessive fines imposed, nor Cruel and Unusual Punishments inflicted.



## STATEMENT OF THE CASE

### A. Background

On or about Third Amend Complaint filed 5/9/22, MD PA Doc. 196, Dismiss on Doc. 203 Filed 10-5-22, Motion To Reconsider Doc. 205 Filed 10/17/22, The Court Denied Doc. 205 at Doc. 209 Filed 10-25-22.

### B. Appeal

On May 25, 2023, a panel of the United States Court of Appeals for the Third Circuit precedential opinioning affirming District Court Judgment. Pet.. Appx. A.

## REASON FOR GRANTING THE WRIT

Petitioner's filing's were before the time-barred of the original Cert. Was Final in Supreme Court. Exhibit (C)(A) MD PA Doc. 196 at 1-20).

### QUESTION PRESENTED

The Third Circuit Erred in Summarily Affirmed District Court Dismissal on Plaintiff's Third Amend Complaint Doc. 196 before his Original Cert. was final in Supreme Court?

Petitioner follow in the split from other circuit's court that rely on repose amend complaint was not final. Moreover, district courts retain discretion to deny plaintiffs leave to amend outside the repose period if the circumstances of a particular case would amend-ment unjust. Now Petitioner agree as other circuits, that statutes of repose create substantive rights that would be affected by allowing a plaintiff a "new cause of action" after the repose period has run. See(Police & Fire Ret. Sys. v. Indy Mac MBS, Inc., 721 F.3d. 95, 109 (2d Cir. 2013); See(Bryant v. US, 768 F.3d 1378, 1383 n.10(11th Cir. 2014); Fencorp. Co. v. Ohio Ky. Oil Corp., 675 F.3d 933, 940-41(6th Cir. 2022); Baughn v. Eli Lilly & Co., 356 F.Supp. 2d 1166, 1173(D. Kan. 2005). Further, the expiration of a repose period creates a vested right to be free from liability only as against those plaintiffs who do not have a pending actions, rather than resolving them. See CTS Corp., 573 U.S. at 8(" A statute of repose... puts an outer limit on the right to bring a civil action. Thus Third Circuit Court erred when not applying the vested right for repose as against Petitioner who sues before the deadline expires. Which in Petitioner case at hand he filed MD PA Doc. 196 Filed before original Cert. denied. Folk v. Bureau of Prisons, 143 S.Ct. 133, 214 L.Ed. 2d 39(2022); See(Crostley v.

Lamar County, 717 F.3d 410, 421(5th Cir. 2013).(Exhibit C).

For this reason, Mr. Folk respectfully requests that this court grant Mr. Folk's petition for writ certiorari. Exhibit A(Doc. 196)

#### QUESTION PRESENTED

The Third Circuit Erred in Summarily Affirmed District Court Not Addressing Doc. 197 Motion For Leave To File A "Com" before his original Cert. was final in Supreme Court?

Petitioner direction is very simple the district court didn't address this "COM" nor Circuit Court. Petitioner further point to Exhibit B. Doc. 197 at 11-6.

Furthermore Petitioner will keep this claim for the lower court as there was no action on this petition that was timely file before the original writ of cert was denied. See(Folk v. Bureau of Prisons, 143 S.Ct. 133, 214 L.Ed. 2d 39(2022)).


Wherefore Mr. Folk prays foregoing should be GVR remanded back to Third Circuit Court of Appeals as this MDPa Doc. 197 was never address down in district court.

#### CONCLUSION

Based on the foregoing, Petitioner Omar S. Folk respectfully requests this Court to issue a writ of certiorari to the United States Court of Appeals for the Third Circuit.

Date: Aug. 23, 2023

Respectfully Submitted,

  
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