

23-7572

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

FILED

MAR 07 2024

OFFICE OF THE CLERK
SUPREME COURT U.S.

ORIGINAL

Jerry A Smith — PETITIONER
(Your Name)

vs.

John Galipeau — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States District Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Jerry A Smith
(Your Name)

5501 S. 1100 West
(Address)

WESTVILLE, INDIANA 46391
(City, State, Zip Code)

219-785-2511
(Phone Number)

Questions Presented

1. Why was I denied my due process rights/procedural in the USCA disciplinary case of 03-2941 (Zincir)?

Q. Why was there no Preliminary investigation from the USCOA?

3. Why was my \$5.00 filing fee denied by USCIS with the threat of dismissal?

4. Why have the USCRA refused to send me a
Order of dismissal on the case 33-2931, when
the order was 14 days of not paying a docket
fee of \$500.00 and case will be dismissed?

5. Why was the date of supervisor (s) days before the actual incident - not, as if they pre-planned the conduct report?

6. How did the Capt'n filey, that was not present, write a witness statement and sign off on the conduct before it.

7. If I was wanted by Sgt. Drem for a cellular device and the technology didn't go off, why was I striped search while having seizure activity in a mop. closet/hallway for prisoners?

8: why was 03-04-2011 due process violated with no signature that required, to show the process of proper DNA proceedings were followed?

9. Why if IDOC Policy 420.311 states: if Prisoner is suspected to have con-
-tributed they are dry cell for 48-72 hrs, why was I found to be cast out of my arm?

LIST OF PARTIES

- ☐ All parties appear in the caption of the case on the cover page.
- ☒ All parties do not 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

LIST OF PARTIES

1. (Warden) John Galipeau Westville Correctional Fac
 2. Lt. Calvin Bradford
 3. Sgt. Lawrence Renkus
 4. Sgt. OMMARRAH
 5. Sgt. DEEM
 6. Correctional Officer Drane
- E-SQUAD

RELATED CASES

1. 21-09-0368 Westville conduct report
2. 3:23-CV-355-DRL-MGG USC/ND South Bend Division
3. 23-2921 United State Court of appeals

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INDEX TO APPENDICES

- Appendix. A - Appeal issues for relief to USCOA 7th circuit, 5 Pages - NO Preliminary investigation or Screening was done of the appeal. Dismissal ordered from the USCOA 7th circuit Feb 27, 2024.
- Appendix. B - notice of case in USCOA and the dismissal date of judgment from USC/ND 9/21/2023.
- Appendix. C - Required document of Disciplinary incident, appeal, statements, and due process procedural that was violated. (no review from USC/ND or USCOA) - NO Screening or Preliminary investigation was done.
- Appendix. D - Notice of United State court of appeals of dismissal, if fee was not paid in 14 days. - NO Dismissal order or reply have been made to me from the USCOA.
- Appendix. E - Proof of denial of my filing fee of \$5.00 with check, that was returned from USCOA denying my rights to appeal.
- Appendix. F - Order of USCOA 7th circuit to proceed without certificate of appealability.

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Serna V. Colorado Dept of corrections

PRLA 148

455 F.3d 1146 (10th cir. 2006) (Violation of searches)

Hill V. Koon, 732 F. Supp 1076, 1082-83 (D. Nev 1990)

PRLA 284

(Violation of digital rectal search word technology)

Calhoun V DeTella 319 F.3d 936 940 (7th cir 2003) "Demeaning Search" PRLA 284

Peckham V. Wisconsin Dept of correction 141 F3d 694 697 (7th cir 1998) PRLA 284

"holding that Prisoners retain some 4th & 8th amendment rights Protected from Unconstitutional Searches" *US V Holloway 128 F3d 1254 1256 (8th cir 1997) * PRLA 283

"dry cell Prisoner / incarcerated individuals on individualized suspicion of contraband"

Mendoza V. Blodgett, 960 F2d 1425, 1429 (9th cir 1992) "Liberty interest Protection" PRLA 283

STATUTES AND RULES

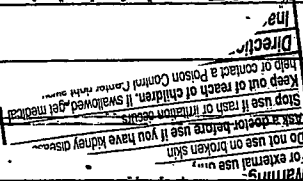
IDOC Policy & Procedure 420.311 ECF No. 44-1PP

12-21

4th Amendment and 14th Amendment

8th amendment of United States Constitution

Burns Ind. Code Ann. § 11-11-2-3(b) search & Seizures



Other violations of Sort Procedures / Esquad

special operations Response Team, is who violated

my rights. (Page 148 / PRLA) Page 288 of PRLA of

Strip Searches may be unconstitutional if they're

needlessly violate intrusive abusively performed or

conducted in a unnecessary public manner or with

the unnecessary involvement of presence of Pg 280-

284 even justified searches must be conducted in reasonable manner

(284) Strip or other searches may be unconstitutional if they are needlessly intrusive abusively performed. Pg 281 It must be reasonable suspicion of concealed items



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 D to the petition and is

☒ reported at USCOA 7th Circuit Dismissal; 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 USDC/ND Dismissal; 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 _____ 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.

JURISDICTION

☒ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was Feb 27, 2024 Dismissal.

☐ 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: _____, 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. § 1254(1).

☐ For cases from state courts:

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

This case involves the 4th, 8th, and 14th Amendment being violated by TDOC Staff of the United States Constitution.

- Section USCS Const. Amend. 4, Part 1 of 16 Unreasonable Searches and Seizures:

"The right of the People to be Secured in their Persons, houses, Paper, and effects, against unreasonable Searches and seizures, shall not be violated, and no warrants shall issue, but upon Probable cause, Supported by oath or affirmation, and Particularly describing the Place to be search, and the Persons or things to be seized."

- USCS Const. Amend. 8; Bail - Punishment

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED

XIV Amendment to the United States Constitution States:

Section 1. All Persons born or naturalized in the United States and subject to the Jurisdiction thereof, are citizen of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privilege or immunity of citizens of the United States; nor shall any State deprive any person of life, liberty, or Property, without due Process of Law; nor deny to any Person within it's Jurisdiction the equal Protection of the Laws.

Section 5. The Congress shall have Power to enforce, by appropriate legislation, the provisions of this article.

THE AMENDMENT IS ENFORCED by title 42, Section 1983, USC

Every Person who, under color of any Statute, ordinance, regulation, custom or usage, of any State or Territory or District of Columbia, subjects, or causes to be subjected any citizen of the United States or other person within the Jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the constitution and laws, shall be liable to the Party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any 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 District of Columbia.

STATEMENT OF CASE

• Introduction •

Before you examine and review the SOTC (Statement of the case) I would like for you to know that Medical emergencies take precedence over anything department-wide in the IDOC. For the benefit of life or death and this Policy, Procedure, and Statute was not adhered to, by IDOC Staff.

S.O.T.C.

On 9/27/2021 I was called out my class of RTVI by Sort Team/E-SQUAD Tactical team around 5-6 Superior Staff ranging from Correctional Staff, Sgt's, and one LT. (Mr. Calvin Bradford, Lawrence Remkus, Omareah, MSi Deem, and officer Drane. Captain Farley was nowhere around the incident, until my rights was violated and my character humiliated walking bare foot in just underwear outside in cuffs with a cast that was tore off. (causing more pain)

• Once I was escorted by E-squad female officer, Sgt Deem. Wanded me with Body Search technology equipment for the entire body. No sound went off meaning I Passed there equipment test. Per Policy I should've been able to return to school; if that was the reason for me being escorted out of class. Then Lt. Bradford furthered the violation of Searching of prisoner being Stripped Searched. Escorting me to a brown / break room for incarcerated individuals that

6.

worked as janitors--at the school, while ms. deen was outside closet. This violated my rights of 4th amendment.

- Then Lt. Bradford, Sgt. Ommarah, Sgt. Lawrence Rankis and Officer Dine Stripped, searched, speaking abusively to me, while doing it not all just Lt. Calvin Bradford. Without a justifiable reason.
- I went into seizure like activities; when I awoke, I was naked on the floor; there was no camera, so I don't know what was done to me. Which something of this magnitude camera should have been present.
- The Doctors cast was tore off my Arm and Hand, which violated my 8th; 14th amendments.
- Then I was told that I needed to put my boxers on; and I was handcuffed in just underwear, no other clothes on. I was escorted outside, when I first seen Captin Farley walking, no where near the School building. (where the staff mentioned was bringing me from.)
- Meaning Captin Farley was never there at all, so how could he furnish statements (attached).
- At The Educational side Admin building I seen Sgt. Flakes asking her to get a nurse to review me, I believe I had a an medical emergency.
- I was told contraband was found on my person, when my brain was shut down at the time.

As you will see - Per Policy Attached
440 311 I should've been day called
after being wanted, by MS Bern. If
staff still believed I had contraband,
not frisked while having a
medical emergency. (Stripping me
naked on a dirty broad closet
floor, left to wake up not
knowing what was done to me.)

So I filed an appeals exhausted remedies administratively
and Federally. HSCA Denied me my rights to proceed
in that court of 7th circuit. I was denied
a screening or preliminary investigation of
this case. As you reviewed opinion below
and jurisdiction I have yet to receive
a dismissal order, so I'm marked
before judgment. Even though I believe it
was dismissed around Oct 19, 2023 Per Appendix
(0) Order / Circuit Rule(b) notice.

So All required attachments are included
in the writ of certiorari. (Evidence to support writ)

Mr. Calvin Bradford (Lt) kept my wealth telling me
Several times since he have my property violating my
USCS and Indian Constitution. (Never returning my personal
property is a criminal violation of theft / conviction and
violates IDOC Policy.

BASIS FOR FEDERAL JURISDICTION

The Case raises a question of interpretation of the Due Process Clause of the Fourth, Eighth, and Fourteenth Amendments of the United States Constitution.

The district Court had jurisdiction under the general federal question jurisdiction conferred by 28 U.S.C. 1331.

REASONS FOR GRANTING THE PETITION

Per IC 11-11-2-3(B) a reason is due to Policy and Indiana Constitution stating: Searches and seizures shall be conducted so as to "avoid" unnecessary force, embarrassment or indignity to confined persons. The department shall establish procedures for searches and seizures, which was violated by IDOC staff at Westville by E-Squad.

Per IDOC Policy 02-04-101 I am afforded due process rights of 48hrs notice, by Captain Farley signing conduct 9/11/01 and the actual incident took place 9/17/01 (this is grounds for dismissal of case, since it was pre planned, which violates USCS rights as well.

Due to Captain Farley not being present at the incident but diminishing the credibility of his word, saying he was, when he wasn't. Lt Calvin Bradford calls the highest ranking officer there, (so Captain Farley wasn't there.)

Due to Lt Calvin Bradford saying in witness statement, he witnessed Sgt L. Remkus find a Baggie on me, not a phone. Per 02-04-101 IDOC policy this will mean L. Remkus was obligated to draft the report, so why is someone name on report. Reason for granting Petition.

Per IDOC Administrative Policy / Procedure 440.311 Attached to

Required documents of case in depth, if an individual is believed to be in possession of contraband, he shall be dry celled in camera unit under "keys watch" for 48-72 hrs. If the technology would didn't detect any electronic device.

By Sgt Deem wandering me with electronic device and it not detecting any electronics, this is a great reason to grant relief.

CONCLUSION

In Conclusion, I Pray that the Supreme Court Find that this is of important Public interest. Due to violations of ACA, IDSH, IDOC policy/Procedure, Indiana Constitution, United States Constitution, and Criminal law being violated by Staff at the Correctional facility. If Petition is granted hopefully Superior officers; can make better choices and decisions; Pertaining to job description. STAFF TRAINING will become reviewed more, so that the medical emergency are number one priority, instead of second and violations of 4th, 8th, and 14th amendment is not violated by Staff. This will ensure the correct policy is used, 420.311 If an individual is believed to have contraband in a area, beyond Staff reach or technology do not detect, instead of the embarrassing, humiliating event that took place 9/27/2021. Also It will show Just due, to the fact, you have power and authority to do what you want, it can't be done without consequences. This will bring the same "effect" of punitive damage deterring other officers making the same mistakes.

Respectfully Submitted
 Prose litigant Attorney
 Jerry A. Smith 2/16/24

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Jerry A. Smill

Date: 2/6/2024