

23-7586**ORIGINAL**

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

MAR 17 2024

OFFICE OF THE CLERK

CHRISTOPHER E. BROWN - PETITIONER

VS.

UNITED STATES - RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS, ELEVENTH CIRCUIT
(NAME OF COURT THAT FIRST RULED ON MERITS OF CASE)

PETITION FOR WRIT OF CERTIORARI

CHRISTOPHER E. BROWN ID# 993160VALENTIA STATE PRISONP.O. BOX # 5368VALENTIA GA, 31603

RECEIVED

MAY 29 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

① Did the Magistrate Judge Lawson enter a recommendation in (Doc: 71) that was in conflict with the Federal Rules of Civil Procedure Rule #56(a)?

② Did the Senior Judge Lawson enter a de novo determination in (Doc: 75) that was in conflict with 28 U.S.C. § 636(b)(1)(A)(A)?

③ Is the opinion of the United States Court of Appeals for the Eleventh Circuit (Doc: 48-1) repugnant to the Constitution & laws of the United States including the Federal Rules of Civil Procedure?

④ Did all of these judgments as a whole become prejudicial to the substantive rights of the petitioner thus making it reversible error?

LIST OF PARTIES

✓ AS ALL PARTIES do NOT appear in the caption of the case on the cover page. A list of all parties to the proceedings in the court whose judgment is the subject of this petition is as follows:

UNITED STATES Magistrate Judge Thomas A. Lawstaff.

UNITED STATES Senior Judge Hugh Lawson.

Before: Rosenbaum, Abudu, and Anderson → →
Circuit Judges for the United States Court of Appeals for the Eleventh Circuit.

RELATED CASES

PERRY V. THOMPSON, 786 F.2d 1093, 1095
UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT
NO. 85-3551
DATE: APRIL 15TH 1986
1986 U.S. App. Lexis 24080

BROWN VS. KERN, NO. 22-11201

CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT

I hereby certify that the following persons and entities may have an interest in the outcome of this case:

Alex Peracudi, Rodney H., Assistant Attorney General
Counsel for Appellee;

Abudu, Mr., Circuit Judge;

Anderson, Mr., Circuit Judge;

Brown, Christopher, Appellant;

Carr, Christopher M., Attorney General, Counsel &
for Appellee;

Cusimano, Ellen, Assistant Attorney General, Counsel
for Appellee;

Kern, Ashley, Appellee;

Lapostoff, Thomas A., United States Magistrate
Judge;

Lawson, Hugh, United States District Judge;

Pinkston-Pope, Loretta L., Deputy Attorney General
Counsel for Appellee;

Rosenbaum, Mr., Circuit Judge;

Teaster, Susan E., Senior Assistant Attorney &
General, Counsel for Appellee.

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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 _____ to the petition and is

☒ reported at 786 F.2d 1093, 1095; 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 _____ 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**:

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

Petitioner seeks Review of an Judgment / Opinion made by the Court of Appeals for the Federal Circuit issued on 12/29/23. (Doc: 48-1) Affirming the District Court's Grant of Summary Judgment for the Appellee.

Petitioner then filed a (timely) Petition for Rehearing - en banc, but was denied on 2/6/24, because the Court enforced the Local Rule of (2) D.C. from entry of Judgment, but without filing an order to Declare it as it says there should be. FRAP Rule #40. With this being, a Civil Case Petitioner was suppose to have (45) - D.C. Petitioner then filed an extension in which is still pending with the Court.

This Court has Jurisdiction under 28 U.S.C. § 1254 (1) - to Review the Court of Appeals decision by writ of Certiorari. The Court of Appeals has Jurisdiction to issue the writ of Mandamus under the All Writs Act. - 28 U.S.C. § 1651. The District Court has Jurisdiction over this case under 28 U.S.C. §§ 1331, 1338.

JURISDICTION

[] For cases from federal courts:

The date on which the United States Court of Appeals decided my case was _____.

[] 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: PENDING, 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).

~~This Court has JURISDICTION under 28 U.S.C. -1254(1) to RE-
VIEW the COURT OF APPEALS ~~WARRANT~~ decision by WRIT OF CERTI-
DORARY. The COURT OF APPEALS had JURISDICTION TO REVIEW
the WRIT of mandamus under the ALL - WRITS ACT. 28 U.S.C. 2
§ 1651. The District Court has JURISDICTION over this case under
28 U.S.C. §§ 1331, -1338~~

[] For cases from state courts:

The date on which the highest state court decided my case was 12/29/23.
A copy of that decision appears at Appendix _____.

[] A timely petition for rehearing was thereafter denied on the following date:
PENDING, 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).

STATEMENT OF THE CASE

The validity of the Appellate Court for the Eleventh Circuit's findings is what is being drawn into question on the ground of its being repugnant to the Constitution and laws of the United States, including the Federal Rules of Civil Procedure, by affirming the District Court's grant of summary judgment on Appellant's Complaint.

This proceeding presents a question of exceptional importance, because it involves an issue on which the Panel decision conflicts with the authoritative decision of the Federal Rules of Civil Procedure Rule #56(a) and (see) 28 U.S.C. § 636 (b)(1)(A); 28 U.S.C. § 636 (B)(3)(C)(3)(i)(i) and the Constitution of the United States Amendment #7... The issue is that the Magistrate Judge's findings in (Doc: 71) Filed 2/8/2022, is in clear error because the correct application of the law was not applied when it comes to (see) 28 U.S.C. § 636 (B)(3)(C)(3)(i)(i), because the Magistrate Judge was authorized to enter his judgment in accordance with the Federal Rules of Civil Procedure Rule #56(a).

The next issue is that the Senior Judge in his de novo determination (Doc: 75) Filed 3/25/2022, was clear error because the correct application of the law was not applied when it comes to (see) 28 U.S.C. § 636 (b)(1)(A) because it says that the Judge of the Court may reconsider any pretrial matter where it has been shown that the Magistrate Judge's order is clearly erroneous, or contrary to the law in which was pointed out and filed by Appellant in (Doc: 74) Objections, but the Senior Judge still accepted and adopted the Magistrate Judge's recommendations (Doc: 71).

STATEMENT OF THE CASE

Appellant arrived back at Vanderburg State Prison in February, 2019, and has been housed out here at all times relevant to this Civil Action, and has been a classified a level-2 Mental Health inmate. (Brown Deps. - 22:1-11;).

Appellant arriving back at V.S.P. was assigned to 9A 1D, B-building in General Population, but returned to 9D because of safety issues. (Brown Deps. 32:3-25;).

Appellant living in fear of imminent danger upon arrival at V.S.P. immediately requested protective custody, and then was sent to E-Building lock down until to wait until request was investigated. (Brown Deps. 38:21-24; 39:1-12; 40:12-22;)

At V.S.P. it is a very long process that is unnecessarily, dangerous when it comes to being made to wait until this investigation gets complete. (Brown Deps. 59:24-25; 60:1-25;).

This incident happen approximately five-months after the Appellant arrived back here at V.S.P. with the Appellee - Sgt. Ashley Kern. (Brown Deps. 63:19-22;)

Appellant had two pre-incidents to occur while in E-Building lock down until receiving protective custody request, and investigation to take place. (Brown Deps. 66:1-25;)

At all times relevant to this Civil Action, the Appellee Sgt. Ashley Kern worked at V.S.P. as a officer, and one of many obligations at there at that time was to do escorts with inmates from one location to another. (Brown Deps. 74:10-17;)

CONTINUED

ON THE DATE OF 7/26/19, THE APPELLEE, SGT. ASHLEY HERMAN, ALONGSIDE SGT. MS. ALLEN, APPROACHED MY CELL TELLING ME TO COME PUT HANDCUFFS ON. THE APPELLEE INDICATED OTHER I-2 ASKED WHAT WAS GOING ON THAT I WAS ABOUT TO GET A NEW ROOMMATE. APPELLANT APPROACHED THE OPEN TRAY FLAP AND WITH GRAVE CONCERN BEGAN EXPLAINING MY SAFETY CONCERNS AND PROTECTIVE CUSTODY ISSUES. (BROWN DEPS. - 75:1-9:)

THE APPELLEE CHOSE TO PASS OVER APPELLANT'S CONCERNS ABOUT THE SAFETY ISSUES AND PROTECTIVE CUSTODY REQUEST BY RESPONDING THAT FORCE WOULD BE USED IF I WOULD NOT ALLOW THE NEW ROOMMATE IN. (IF I REFUSED). APPELLANT THEN STATED IN A CONSISTENT MANNER THAT HE WOULD ONLY REFUSE A ROOMMATE BECAUSE OF LIVING IN FEAR FOR HIS LIFE. (BROWN DEPS. 75:10-24:).

APPELLEE THEN USED FORCE BY SPRAYING PEPPER SPRAY INSIDE APPELLANT'S CELL, THEN CLOSED AND LOCKED THE OPEN TRAY FLAP BACK. (BROWN DEPS. 76:5-6:). AFTER APPELLEE USED FORCE BY PEPPER SPRAY, THE APPELLANT WAS THEN HANDCUFFED AND TOOK TO THE SHOWER. (BROWN DEPS. 76:-13-17:).

AFTER APPELLANT WAS PLACED INSIDE THE SHOWER, THE APPELLEE THEN LOCKED THE DOOR AND WITHOUT EXERCISING ANY TYPE OF REASONABLE CARE WALKED OFF LEAVING HER HANDCUFFS ON THE APPELLANT. (BROWN DEPS. 76:17-18:). APPELLANT HAD TO TURN THE SHOWER ON BY HITTING HIS HEAD UP AGAINST THE WATER BUT ON, IN ORDER TO TURN IT ON. (BROWN DEPS. 76:19-22:).

EVEN AFTER APPELLANT ALLOWED THE WATER TO RUN OVER HIM HE WAS STILL HAVING TROUBLE SEEING, AND WHILE STILL IN THE SHOWER, MADE A COMPLAINT THROUGH THE OPEN DOOR FLAP TO SGT. MS. ALLEN. (BROWN DEPS. 76:23-25: 77:1:).

APPELLEE CAME BACK INSIDE THE DORM TO HELP ESCORT APPELLANT BACK TO HIS CELL FROM THE SHOWER WITH ANOTHER PRISONER THE NEW INMATE ALONG WITH HER. THEY BOTH WENT AND GOT THE OTHER INMATE AND PLACED HIM INSIDE ANOTHER CELL. THEY BOTH OF THEM LEFT WITHOUT GETTING APPELLANT ANY TYPE OF MEDICAL ATTENTION. (BROWN DEPS. - 77:2-18:).

CONTINUED

Brown on the inmate, and the situation, it could be 2
 worse for an officer to open the cell door of an 2
 inmate without first placing the inmate in handcuffs 2
 (Brown Deps. 81:1-10:). Appellant made every effort to 2
 let it be known that he was "only" refusing a room- 2
 mate, because he was scared for his life with Appellee 2
 having a duty to investigate at that time, she still 2
 chose not to. (Brown Deps. 94:1-24:).

The Appellee chose to have inadequate consideration 2
 for the imminent danger that the Appellant kept an 2
 pleading for his life that he was in and chose to use 2
 force exclusively by speaking the Appellant directly in the 2
 face through the tray flap. (Brown Deps. 101:2-25; 102: 2
 -1-22:). Appellant made two complaints as for as having 2
 trouble with his vision while in the shower to Sgt. 2
 Ms. Allen, and also once again while being under 2
 escort on the way back from the shower in the very 2
 presence of the Appellee. (Brown Deps. 106:12-21:).

With all more assignments regarding inmates coming 2
 from Appellee's supervisors in administration, and with 2
 as a Correctional Officer, Appellee thus having a duty 2
 to investigate, she could have very well went and 2
 made the same call to them in order to temper the 2
 use of force before using it on the Appellant instead 2
 of using force first and then calling her supervisor 2
 afterwards in which is what she did and then found 2
 out that it was indeed a safety issue with the App- 2
 ellant, thus then getting permission to move the new 2
 inmate to another cell from her supervisors. (Brown 2
 Deps. 108:1-25:).

With Appellee not providing the Appellant with the proper 2
 medical attention that she had a subjective knowledge of 2
 that the Appellant needed by disregarding the risk of 2
 serious harm from her use of force, Appellant had to 2
 wait and put in a sick call he got from the IDOMS 2
 floor officer later that day and was finally seen by 2
 medical days later in which delayed an urgent 2
 medical treatment that was needed. (Brown Deps. 2
 -114:1-25; 115:1-25; 116:1-15:).

REASONS FOR GRANTING PETITION

Because of the Compelling Reasons that exist in this case calls for the exercise of this Honorable Supreme Courts discretionary Jurisdiction, therefore motion if the National Importance of having the Supreme Court decide the questions involved.

The Appellate Court has over looked the main two issues that was briefed on appeal, that is the fact that the District Court is in violation of procedural error when it comes to the Federal Rules of Civil Procedure, and also the United States Constitution Title 28 by granting the Appellees (Doc:39) Summary Judgment.

It was determined by the District Courts Magistrate Judge that the Defendant did not satisfy her initial burden, to demonstrate that no genuine issue of material fact remains when it comes to the extent of the Appellants injury in which was declared by the District Court to be: Greater than "de minimis" in (Doc:71) Recommendations. On Page #9 of 15, on the Date of 2/8/22 after this was decided, it truly was indeed a need for a trial.

According to the Constitution of the United States Amendment #7, it says that: in Suits at Common Law where the value in controversy shall exceed twenty Dollars the right of trial by jury shall be preserved and no fact tried by a jury shall be otherwise re-examined, in any Court of the United States than according to the Rules of Common Law.

This decision of the Appellate Court is in direct conflict of a case and decision that already been made by this same Appellate Court in the case of (see) PERRY V. THOMPSON, 786 F.2d 1093, 1095 - Case NO. 85-3551 (1986).

Now more than ever this Court should take the opportunity to address the right to a jury trial in actions.

CONCLUSION

BECAUSE OF THE UNITED STATES COURT OF APPEALS SO FAR DEPARTING FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS, MAKES THIS A CALL FOR AN EXERCISE OF THIS HONORABLE SUPREME COURT'S SUPERVISORY POWER, AND FOR THIS REASON ABOVE THIS HONORABLE COURT SHOULD GRANT A WRIT OF CERTIORARI TO THE COURT OF APPEALS FOR THE FEDERAL CIRCUIT.

THE PETITION FOR A WRIT OF CERTIORARI SHOULD BE GRANTED.

Respectfully Submitted,

Christopher E. Brown

DATE: 5/2/24