

23-7770

No. _____

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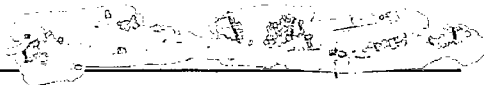
JUN 05 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES



Jerry A Smith — PETITIONER
(Your Name)

vs.

John Galipeau — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United State Court of Appeals 7th circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Jerry A Smith
(Your Name)

5501 S. 1100 W
(Address)

Westville In 46391
(City, State, Zip Code)

219-785-2511
(Phone Number)

QUESTION PRESENTED

1. Question here is? Why was Central office able to not grant or Deny my appeal but the USC/NO Dismissed it without Preliminary?
2. Question Why was the Facility able to find me guilty without any Superior custody, supervisor, or warden checking camera footage?
3. Question Why was an IDOC officer able to lie on government State forms and I be found guilty violated IDOC Policy 02-04-101?
4. Question. Why was an incarcerated individual able to be maliciously Sadistically Unlawfully sprayed and an investigation was not done?
5. Question Why was I sprayed excessively twice by An officer and not giving a 10min decontamination Shower Per IDOC Rules?
6. Question Why Do the conduct Report say 1-24-23 in the body, but incident report Read 1-23-23, in which is grounds for Dismissal Per 02-04-101
7. Question How was Shift supervisor able to violate my Rights placing me on a Darn with individuals that Ocas/OIS says I couldn't be ground violating Safety and Security Policy; Procedure (after I was sprayed?)

QUESTION(S) PRESENTED

8. Why didn't the Superior Authority Per Use of force, (off sheet) Review the camera footage of the officer Alexis Hilson? (Shift captain Randall Earnhart) Even after the fact of knowing they officer was wrong.

9. Why was it a discovery misconduct, with holding evidence that I am entitled to Per 02-04-101? (A Camera from P1 Right side of the Dayroom was missing) footage watched by legal liaison me 1/9/2024 is how I found out it was missing.

10. How was there no Review of Procedural rights being violated Per 02-04-101? (in which 24 hrs has Passed Per Court Documents)

11. Why was my appeal rights was denied by facility's courts due to "negligence" of my Rights being denied and Law library Access/courts?

12. How was the USCOA (7th) able to lie in order when my NOA was before 2/7/24?

Question Presented

13. Per IDOC Policy there shall be one Appeal - Denial, there was two from Westville why was this done?

14. Why is it that on the order from march 6, 2024 from the 7th circuit, it states that my case will be dismissed if I fail to show cause for feb 8, 2024 when I explained all in 12/7/2023 motion? (Appendix E)

15. Why in Appendix A doe, the 7th circuit court say I was 5 months late when Exhibit (A) states notice of appeal was nov 28, 2023?

16. Why was there obstruction of justice on the Exquc vision footage at Westville State (approx time) at 9:34.53. 831pm 1/24/23 that ofc's was in P1 S Hallway cuffing me, when the same footage states they arrived in P1 at 9:35.00pm? (it's only one way in)

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[x] 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:

1. John Galipeau Ex. Warden
2. Captin Randall Earnhart
3. Alexis Hilson etc
4. Lt. Starks
5. Sgt Hogan Bryan

RELATED CASES

3:23-cv-677-TLS-JPK USC/NO

23-01-0204 WCC

3:23-cv-199-JD-JEM USC/NO

24-1196 USCOA 7th circuit

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APPENDIX A	USCOA 7th circuit Dismissal 2/8/2024 Case 24-1196
APPENDIX B	USC/NO Southland division 8/8/2023 3:23-cv-00677-TLSJPK
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APPENDIX D	USSC Filed in support of the writ of Certiorari efficient interest
APPENDIX E	Required Records for writ of Certiorari evidence in support
APPENDIX F	

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

1. Hawkins vs O'Leary (NO 111 1990)
2. Danley V Allen 540 F3d 1298 1309 (2008 11th cir) chemical agents used unnecessarily without psychological justification; for the purpose of harm violates 8th and 11th amendments.
3. Stone V Couch 2021 US Dist Lexis 177289 maintaining order or discipline
4. McCloud V. Varscheyck 2024 Lexis 10642 "not allowed to rinse eyes with"
5. Harris 190 F3d at 1286-89 misuse of force
6. Thomas 614 F3d at 1312 misuse of force
7. Randall V. Scott (11th circuit 2010) misuse of force

STATUTES AND RULES

- PRLA Pg 128 under use of force (Hudson Standard)
- PRLA Pg 127/129-38 (Use of force, justification, amount of force used)
- Policy's Regulation 10th ed Rule 11.5 degree of force required.
"enforcement of prison rules."
- per 11.3 PRLA 10th ed. self defense (to show this was not the cause)

OTHER: Whitley V Albers 475 US 313, 320, 311 was act done in good faith

Park V. Shiflett 250 F3d 843 849 (4th cir 2001) effects of oleoresin capsinum.

Young V Kent City Sheriff Dep't 2022 Lexis 740 States what should be done for him to spray me lawfully and to not call assistance or follow him.

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 Lexis Nexis; 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 _____; 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 8, 2024.

☒ 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).

BASIS FOR JURISDICTION :

- i Derived by USCINA Southland division
- ii Derived by USCOA 7th circuit court
- iii Jurisdiction is conferred on this court by US Supreme Court Per: 28 USC 1254 and 1257

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution Amendments

• 4th, 8th, 11th, and XIV

Indiana Code Battery from an officer

35-42-2-1

STATEMENT OF THE CASE

On 1-23-2023 I was on PI South Hallway and asked ms. Alexis Hilson to retrieve my Gtl tablet off the charger, when she opened the gate during count time, in error for an incarcerated individuals that did not live on PI South. He stayed on PIN the opposite side of us, (in which all gates are suppose to be closed during count time) Per IDOC. Westville rules & regulations to minimize escapes. She begin to get angry, due to me looking at her locker she had just broke the rules and I cant retrieve my tablet. (All she had to do was say no and closed the gate) She begin to talk loud and when I tried to apologize for earlier, she kept talking and I didnt want to refuse a direct order. So she begin to spray me excessively. I stayed behind the gate the whole time, never crossing one foot into the day room per camera footage. So there was not a threat. (Per camera she looked up at the camera, before spraying me; hiding behind the pillar, the "missing" camera shows what the other 2 cameras did not show.) (PI ^{Missing} Day room Rightside). So I go into the Shower, but realizing some one was in the Shower I could not, then Sgt Bryan Hogan Put me on the wall in cuffs; while my radio was in my hand and head phones in my ears. I was escorted off the dorm by 9:35 pm on 1/23/24. I asked Sgt's to review the camera's, I was told by Sgt Leith months later

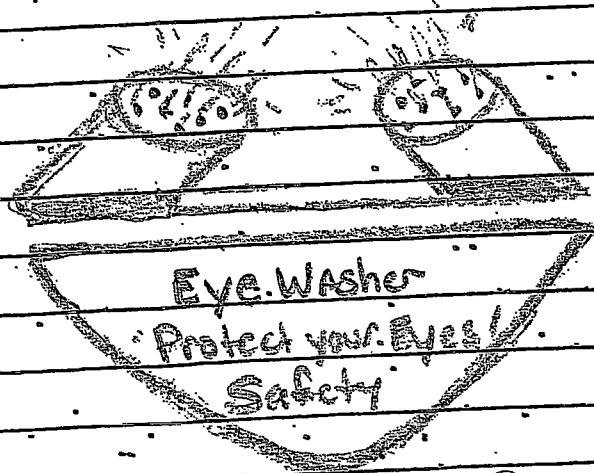
STATEMENT OF THE CASE

That only Lt's and Capt's can review the footage in which I asked for Lt. STAKS to review the camera and he with Captin Randall Earnhart; never reviewed the cameras, (per Use of force offsheet) or they would've seen there Officer maliciously and intentionally spray me, while no action was going on to restore and maintain order per Use of force policy. NO imminent danger was upon her. DFC Bryan Hogan did not read me my "OC Administration rights" or give me a "10 min decontamination shower" (violating my rights as well) furthering the Pain. (solution to this problem is on the next page) Property came up missing due to mis. Attilson negligence allowing incarcerated individuals to pack me up. Then my rights of Safety & security was violated Placing me on a unit/side GSC, without (10 min decontamination Shower) with officers, incarcerated individuals, and staff that have physically, mentally, spiritually, sexually, and emotionally Abuse me or put me in a painful situation. So I was at a disadvantage and was moved off the dorm under threats to harm my physical being. This is due to Captin Randall Earnhart and whoever made the complex move, not reviewing the data or (camera) of who I was not suppose to be around due to A. waivers B. allegations or C. Separates. This violated my rights putting my life at risk.

STATEMENT OF THE CASE

Solution To My 10 Min Shower being Violated

- While in class for building trades the idea came to me, reading Osha standards with Professor Stephen Armet
- Safety first construction
An Eye Wash fountain, like the one in RITE class, in areas in the prison will prevent incarcerated individuals from being deprived the right to a 10 min decontamination shower of the eyes, instead of experiencing more pain and furthered eye displacement.
- Future solutions, if one is placed in A. all cell houses or B) in all Administration Buildings/Medical.



Respectfully Submitted
Amy A. Smith
2/13/24

REASONS FOR GRANTING WRIT

- Violating 02-04-101 / PRLA Rights of suppressing a camera from PI Right side with efficient evidence that will show of Alexis Hilson maliciously spray me. (I was only shown PLS Hallway and Left side of PI Dayroom by Legal liaison John Hicks 1/9/2024 due to case in court.
- Violation of my due process rights of 24hrs. a conduct written when the incident happened 1/23/23, but conduct says 1/24/23 in which was never changed through out all use of force, incident reports, ect. This operative fact of factual evidence is supported by the deposition of me by Alexis Hilson and her answers for my interrogatories, Pro-se Attorney (in which she agreed that it did not happen on the 24th of Jan, it was the 23rd, which violates the 24hrs.
- In the conduct report ms. A. Hilson states: The incident happened at 9:36pm on 1/23/23. When I reviewed the actual footage on 1/9/2023 Attachment is enclosed, I wasn't even on the unit at 9:36pm 1/24/23 or 1/23/23, I was escorted off the dorm per actual footage at 9:35pm by OFC (Sgt) Bryan Hogan. Per 02-04-101 the body of conduct can not be changed after hearing and this will mean the conduct is violation d/bb process of my Procedural rights.
- My mail being with held so that today time limit pass hindering appeals.

REASONS FOR GRANTING OF WRIT

• The United States Court of Appeals improperly

stated in the order of dismissal Feb 8,

2024. That I filed notice of appeal

around Feb 7, 2024, when I filed

a notice of appeal months prior

to that in 2023 to be exact. The

Courts and mail system was cleared

by Pi Evely even though I was

charged and then when I sent it

again through US Postal mail the

United States District Court Thomas G. Bruton

responded saying there was no case number,

when there was a case number right on the

records. Denying my right to a appeal

to exercise that as USC 1254-1257.

The case number was clearly stated 3:23-cv-677-TLS-JRK.

• No Preliminary Injunction was done correctly,

by either of the Administrative Judicial System

for the research would find the violations

of 02-04-101-DOC AHS Proceeding Policies, knowing

my 4th 8th and 14th amendment has been violated.

due to me not violating any Policies per

camera footage to be unlawfully sprayed.

It was not to maintain or restore order, it

was court time and the door should have been opened.

This was maliciously and intentionally done to harm

me for not giving her any attention, causing

irreparable harm to my person, leaving me unlaw-

fully incarcerated due to this conduct by Public Boord judges.

CONCLUSION

In the light of public grave importance, I ask that the courts grant my writ of Certiorari appeal from DTHB blint violations and United States Constitution; So that the next officer around the world do not feel the need to maliciously, Intentionally; and Sadistically spray an incarcerated individual; that's not causing a problem or violating IDOC policy. I Pray that this process is expedited due to the parole board coming the end of March 2024 and this conduct is why I was with held at this prison another year, because it was my only conduct report and that was marked as a reason for there denial.

Thank you for your time and patience

Sincerely

Jerry Smith #129911

2/18/2024