

23-7784

IN THE  
SUPREME COURT OF THE UNITED STATES  
MAY TERM 2024  
No. 23-2490  
CORNELL SMITH  
Petitioner,  
-against-  
NICHOLAS SANCHEZ, et al.,  
Respondents

FILED  
MAY 14 2024

OFFICE OF THE CLERK  
SUPREME COURT U.S.

ORIGINAL

PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS FOR THE  
SEVENTH CIRCUIT

Respectfully Submitted:

  
Cornell Smith#230540  
Petitioner's Pro Se civil litigator  
Waupun Correctional Institution  
P.O. Box 531  
Waupun WI 53963-0351.

IN THE  
SUPREME COURT OF THE UNITED STATES  
No#23-2490

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CORNELL SMITH,

Petitioner,

VS.

NICHOLAS SANCHEZ, et al.,

Respondents'.

---

PETITIONER'S PETITION FOR A WRIT OF  
CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE  
SEVENTH CIRCUIT

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QUESTION PRESENTED

Whether the 3 Wardens' had a meeting of the minds decided the fate of the Petitioner's issued retaliatory ordered to their entire WCI Department against him to do whatever necessary to stopped his civil lawsuit Smith v. Erickson et al then authorized, directed, participated, and condone in his brutal discriminative mistreatments under the First, Fourth, Eighth, as well the Fourteenth Amendment. The Petitioner's presented overwhelming preponderance of the evidence that supported materials issues of factual allegations.

Whether Respondents' breached DOC permanent sworn signed contract inadhered to ministerial act in the treatments of the Petitioner's discriminatively abused their power and authority to engaged in conspiracy retaliatory ordered misconducts against him carried out by issuing falsed, unreliable, untrustworthy Conduct reports. Presented overwhelmin preponderance of the evidence under the First, Fifth, and the Fourteenth Amendment supported materials issues of factual allegations.

Whether Respondents' breached DOC permanent sworn signed contract abused power and authority failed to adhered ministerial acts released dangerous inmates-prisoners' from cell's aware of the physical brutal violent attacked and assaulted on the Petitioner's life stood watch without intervening duration of 2 minutes before radio assistance just to carried out the 3 wardes' retaliatory ordered against him couple with issuing falsed, unreliable, and untrustworthy Conduct report. Presented overwhelming preponderance of the evidence under the First, Fifth, Eighth, and Fourteenth Amendment supported materials issues of factual allegations.

Whether Respondents' breached DOC permanent sworn signed contract deliberately recklessly indifferently inadhered to their own ministerial acts in the denial of emergency healthcare treatment to carried out conspiracy ordered to realiated against Petitioner's for the exercise of civil or constitutional rights under the First, Eighth, and Fourteenth Amendment. Presented overwhelming preponderance of the evidence that supported materials issues of factual allegations.

Whether Respondents' breached DOC permanent sworn signed contract abused power and authority inadhered to own ministerial act in the denial of proceeding due process and due process hearings for minors as well majors falsoed, unreliable, untrustworthy Conduct reports under the First, Fifth, and Fourteenth Amendment. Presented overwhelming preponderance of the evidence that supported material issues of factual allegations.

Whether Respondents' breached DOC permanent Sworned signed contract deliberately recklessly and indifferently inadhered to their own ministerial acts in releasing private medical information to the 3 wardens' used to carried out conspiracy retaliatory ordered against the Petitioner's that endangered his life as well as others removed from medical permanent restrictions prescribed by PSU doctors, under the First, Fifth, Eighth, and Fourteenth Amendment. Presented overwhelming preponderance of the evidence that supported material issues of factual allegation.

Whether Respondents' breached DOC permanent sworn signed contract abused power and authority inadhered to their own ministerial acts in the denial Petitioner's investigation into the criminal misconducts of prison offici- ials, prison staffs', employees', as well its agents' relating to the saftey, security, health, and to maintain orders under the First, Fifth, Eighth and Fourteenth Ament as well Equal protections Clause. Presented overwhelming preponderance of the evidence that supported material issues of factual allegations.

Whether the U.S. District Court's was bias clealy reckless and erroneous abused of his or it's discretion exceeded his or it's jurisdictions in the complicited acts to protected the Respondents' from disciplinary and criminal prosecution of their criminal misconducts unconstitutionally dismissed Petitioner's Defendants as well evidence that implicated them in criminal misconduct against him inadhered to discovery federal rules including summary judgment procedures in their favored by admitted falsoed, unreliable, and untrustworthy evidence against the Petitioner's in support decision and ordered of the district court under the First, Fifth, and Fourteenth Amendment as well Equal Protections Clause. Presented overwh- elming preponderance of the evidence that supported material issues of factual allegation.

Whether Respondents' they lawyers' the district court's and nonparty's conspired to retaliated against the Petitioner's by abused of power and authority inadhered to their own ministerial acts in illegally implement- ing rules, regulations, policies and procedures taken and depriving the Petitioner's of his trsut funds without legal authorization just to pro- hibited the Seventh Circuit Appellant Court from exercise jurisdiction

over his appellant right the right to prosecute his case as well forbidding the Petitioner's to comply with state and federal laws of the 28USCA §1915 under the First, Fifth, and Fourteenth Amendment including Equal Protections of the law. Presented overwhelming preponderance of the evidence that supported material issues of factual allegations.

PARTIES:

The Petitioner's Cornell Smith#230540 is an inmate's-prisoner's at the Waupun Correctional Institutional in the State of Wisconsin P.O.Box 351 Waupun Wisconsin 53963-0351. Respondents' are sergeant Nicholas Sanchez, officers Thompson O'neill, officer, Gau, Officer. McQuown, nurse. Jane Doe, Capt. Westra, Capt. Raymarwitz, L.t. Marwitz, sergeant. Peterson, sergeant. Barber Blake, Capt. Sabish, sergeant. Kijek Jordan, officer. Pach, deputy warden. Donald Strahota, officer. Krollman, law librarian. Nevin Webster, Ice agent. Tonia Moon, D.A.I. Marc Clement, PSW dotor. Griffith, PSU doctor. Vanburne, fmr. warden Williams Pollard, fmr. warden. Brian Foster, current warden. Randall Hepp, sergeant. Demers.

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### STATE STATUTES:

28 U.S.C.A. §1915
42, U.S.C.A. §1983-85
28 U.S.C.A. §1254 (1)
42. U.S.C. §1331 (1)
U.S.C. §1746
Federal Rules Civ.P.
Fed.R.App.P. 3 (c).

DECISION BELOW:

The decision of the United states Court of Appeals for the Seventh Circuit is unreported. It is cited in the table denial rehearing dated: February 22, 2024 a copy is attached as Appendix A. to this petition (A.1).

The order of the United States District Court is not reported. A copy of the order is dated: November 28, 2022 attached as Appendix to this petition (A.2).

JURISDICTION:

The Pro Se, Petitioner's civil litigator Mr. Cornell "SMITH" appearing (herein-after), in the above-entitled matter proceeded in forma pauperis seeking the sought-after relief therein, his civil Rights Complaint 42, U.S.C.A. § 1983-85. The United States Court of Appeals for the Seventh Circuit having jurisdiction over the Petitioner's appealed of rights dated: 2022 thur 2024. The Petitioner's is appealing a final ordered dismissal of his motion proceeding in forma pauperis beforth the Full Panel Seventh Circuit Court Judges dated: January 2, 2024 with no right to appeal he believes that the Appellant Judges was clearly erroneous abused of their disretions exceeded their jurisdiction. The Petitioner's, brings his appeal of last resort under the U.S. Supreme Court, pursuant to; Rules 10, 11, 12, 13, and 14. Sub. (a)(b)(d)(c) and (g). Jurisdiction is conferred by 28 U.S.C. §1254 (1).

CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED

This case involves Amendment XIV to the United States Constitution, Which provides:

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are Citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of Citizens of United States; nor shall any state deprived any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

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

The Amendment is enforced by Title 42, Section 1983, United States Code:

Every person who, under color of any statute, ordinance, regulation, Customs, or usage, of any state or territory or the District of Columbia, sub-

jects, or causes to be subjected, any Citizens 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 capacity; injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purpose of this section, any act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

#### STATEMENT OF THE CASE:

The Petitioner's complaint alleged that in 2013, he submitted and filed his civi lawsuit, pursuant to: Smith v. Erickson et al., that the 3 wardens' had a meeting of the minds and plotted against him by ordering their entire WCI Department to do whatever necessary to stopped his lawsuit.

In a complicitated overt acts against the Petitioner's the subornates carried out the 3 wardens' ordered by issuing falsed, unreliable, and untrustworthy Conduct reports in which he was accused of falsed statements/information supporting rules violation without them adhered to their own ministerial act. He, was denied healthcare and was physically violently brutuallly attacked and assualted for exercising his civil or constitutional rights. He, cóntinued to be punished and the Defendants' are escaping from their criminal misconducts by taken and depriving him of his trust funds from his trust funds account without legal authorization under the First, Fifth, Fourth, Eighth, and Fourteenth Amendment.

#### BASIS FOR FEDERAL JURISDICTION

The Seventh Circuit Appellant Court had orginal jurisdiction over the Petitioner's appealed of rights, under 42 U.S.C. §1331 (1). Pursuant to: Fed.R.App.P. 3 (c), When the district court or appellant issued an order to dismissed a motion for in forma Pauperis is reviewable on appeal.

See, Roberts v. United States District Court, 339 U.S. 844 70 S.Ct. 954, 94 L.Ed.2d 1326 (1950).

#### REASON FOR GRANTING THE WRIT:

The Respondents' have conceded the entire lawsuit or any rights to appeal, pursuant to: Whiteford v. Boglino, 63 F.3d 527, 536 (7th Cir. 1995). The Respondents' have engaged in every illegal criminal misconducts to stop the Petitioner's appeal. He's seeking to prevent them from doing that.

#### A. Conflicts With Decision of other Courts

When a Petitioner's has 3 or more prior dismissal and who isn't any imminent danger, must pay the required court order filing fees, pursuant to: 28, USC §1915 (g). The U.S. Supreme Court's Mandated, that the state Prison Government is subjected to the same rule if and when ascertained that they committed crimes warranted imprisonment.

As Mr. Justice Brandeis once observed:

'Dencency, security and liberty alike demanded that government officials shall be subjected to the same rule of conduct that are command to the Citizen. In a government of laws, existence of the government will be imperilled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is conagious. If the government become a lawbreaker, it breeds contempt for the law; it invites every man to become a law unto himself; it invites anarchy. To declare that to the administration of the criminal law the end justifies the means\*\*\* would bring terrible retribution. Against that pernicious doctrined this Court should resolutely set it face.

Olmstead v. United States, 277 U.S. 438, 485, 48 S.Ct. 564, 72 L.Ed.2d. 944 (1928) (dissentting opinion).

In ordered to escaped their criminal misconducts the Respondents' have Conspired to denied or deprived the Petitioner's of his Civil or Constitutional rights, under the Fifth and Fourteenth Amendment to deprived him of the provision that protects all U.S. Citizens from being deprived of life, liberty, and property without due process of law. Bearden v. Georgia, 461 U.S. 660, 673, 103 S.Ct. 2064 76 L.Ed.2d 221 (1983) (stating that "fundamental fairness [is] required by the Fourteenth Amendment"). See, 18 U.S.C.A. §241 (Effective: October 11, 1996). The Petitioner's do not have physical possession over his state funds nor over his trust funds account yet the Respondents' have been illegally taken and depriving him of his funds in ordered to keeped him from complying with state and federal mandates. Respondents' illegally misconducts is in conflicted with the U.S. Supremacy Law of the Land and must yeild.

#### B. Importance of the Question Presented

This case presents a fundamental question of the interpretation of 28 U.S.C. §1915 (g). The question presented is of great public importance because it affects the operation of the prison system in all 51

states, the District of Columbia, and hundreds of city and county jails.

In view of the large amount of litigation over the inmates trust funds accounts. The Ninth Circuit Court, held, that the Petitioner's has two distinct constitutional rights under the "Taken Clause" (1) his Fifth Amendment right to just compensation for "taking" of the interest, and (2) his Fourteenth Amendment Due Process right, which prohibits prison officials from confiscating such an interest or property without statutory authorization. See Vance v. Barrett, F.3d 1088-89 (9th Cir. 2003). Id. The Fifth Amendment provides that "private property [shall not] be taken for public use; without just compensation." U.S. Const. Amend. V. See also Webb's Fabulous Pharmacies Inc v. Beckwith, 499 (1980)

In pertinent part;

"The Fifth Amendment of the Constitution of the United States are the familiar one: nor shall private property be taken for public use without just compensation." That the Prohibition of course, applies against the state through the Fourteenth Amendment."

Webb's Fabulous Pharmacies Inc. v. Becwith, 499 U.S. 155, 164 101 S.Ct. 466 (1980). The Supreme Court in Wolff v. McDonnell, held, that inmate's due process rights <sup>CIV</sup> ~~are~~ satisfied if he has "(1) advance written notice of the disciplinary charges; (2) an opportunity when consistent with institutional safety, and correctional goals to call witnesses and present documentary evidence in his defense; (3) a written statement by the fact finder of the evidence relied on and reason for the disciplinary action." Id. 418 U.S. at 563-67.

#### CONCLUSION

WHEREFORE: the Petitioner's humbly prays that this U.S. Supreme Court will reverse the U.S. District Court Decision and Ordered granting Defendants'/Respondents' summary judgment because there have been a miscarriage of Justice in both the Ordered to dismissed the Petitioner's motion proceeding ~~informa~~ Pauperis because the Respondents' are illegally taken and depriving him of funds to prohibited the exercise jurisdiction of the Seventh Circuit Appellant Court. Please established jurisdiction in the interest of justice.

Cornell Smith, declares under penalty of perjury pursuant to: 28

U.S.C. §1746 that he mailed a copy of the enclosed: Petition for Writ of certiorari, order denying rehearing, declaration, Exhibits-, and ordered of the district court to the Seventh Circuit Appellant Court.

Dated 28 this day of April, 2024.

Respectfully Submitted:

Cornell Smith  
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P.O. Box 351  
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