

No.

IN THE

SUPREME COURT OF THE UNITED STATES

MICHAEL EDWARD AGUILAR,
PETITIONER.

v.

COKE COCA,
RESPONDENT.

ADDRESSED TO JUSTICE KAGAN, CIRCUIT JUSTICE

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

APPLICATION FOR EXTENSION OF TIME

MICHAEL EDWARD AGUILAR #220506002
POST OFFICE BOX 951
TUCSON, ARIZONA 85702

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1 TAYLOR V. COUNTY OF PIMA

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JURISDICTIONAL STATEMENT

THE DISTRICT COURT HAD JURISDICTION OVER AGUILAR'S CIVIL RIGHTS ACTION UNDER 28 U.S.C. §§ 1331, 1343. VENUE WAS PROPER IN THE DISTRICT OF ARIZONA BECAUSE THE CONSTITUTIONAL VIOLATION OCCURRED IN THAT DISTRICT. 28 U.S.C. § 1391(b)(2).

THE CIRCUIT COURT HAD JURISDICTION OVER THE DISTRICT COURT'S FINAL JUDGMENT. 28 U.S.C. § 1291. ON OCTOBER 18, 2021, THE DISTRICT COURT ENTERED ITS FINAL JUDGMENT. DIST. CT. DOC. 24. AGUILAR'S NOTICE OF APPEAL WAS TIMELY RECEIVED ON OCTOBER 25, 2021. *Id.* AT DOC. 26.

THIS COURT HAS JURISDICTION TO REVIEW CASES IN THE COURTS OF APPEALS. 28 U.S.C. § 1254(1). ON FEBRUARY 22, 2022, AGUILAR FILED HIS OPENING BRIEF. CIR. CT. DKTENTRY 13. ON FEBRUARY 23, 2023, THE CIRCUIT COURT AFFIRMED THE DISTRICT COURT'S JUDGMENT. *Id.* AT DKTENTRY 17. ON MAY 16, 2023, THE CIRCUIT COURT DENIED PANEL AND EN BANC REHEARING. DKTENTRY 34; SEE SUP. CT. R. 13.3.

Substantive To Be Reviewed

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IN THIS PRISONER-FIRST-AMENDMENT-RETALIATION ACTION BROUGHT UNDER 42 U.S.C. § 1983, AGUILAR SEEKS RELIEF FROM A PRISON OFFICIAL ORDERING SUBORDINATES TO TAKE HUNDREDS OF DOLLARS WORTH OF PROPERTY FROM AGUILAR FOR ASSISTING A FELLOW PRISONER INITIATE THE EXHAUSTION OF ADMINISTRATIVE REMEDIES AS REQUIRED BY THE PRISON LITIGATION REFORM ACT. THE PRISON OFFICIAL WHO HAD ORDERED HIS SUBORDINATES TO TAKE AGUILAR'S FOOD COMMISSARY AND APPLIANCES WAS AT THE TIME THE GRIEVANCE COORDINATOR AND SECOND-IN-COMMAND AT THE PRISON; AND AFTER ALSO ORDERING SUBORDINATES TO WITHHOLD FROM AGUILAR THE SOURCE OF THE ORDER TO TAKE HIS PROPERTY, THE GRIEVANCE COORDINATOR ADVANCED EVOLVING PRETEXT IN RESPONSE TO AGUILAR'S PREVAILING REBUTTALS. SEE APPENDIX A AT 13-15.

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IN A DISINGENUOUS REVIEW OF AGUILAR'S THIRD AMENDED COMPLAINT THE DISTRICT COURT SUBSTITUTED THE FACT IT WAS A DORM-SETTING WHERE AGUILAR'S PROPERTY WAS TAKEN WITH A CELL-SETTING, WHERE NO WITNESSES EXIST. SEE AGUILAR V. COCA, 21-110789, DKT-ENTRY 27 AT 8-9 (9TH CIR. APR. 14, 2023) ("IT IS INTERPRETIVE FOR THE COURT NOT TO OVERLOOK HOW JUDGE ZIPPS INCORPORATED SUBTERFUGE WITHIN A FACT FOR THE SOLE PURPOSE OF DISMISSING THE CLAIM.").

1 WHERE THE SUPREME COURT BANNED A HEIGHT-
2 ENED PLEADING STANDARD IN PRISONER-FIRST-ARRIVAL-
3 MENT-RETALIATION CASES A QUARTER-CENTURY AGO UN-
4 DER CRAWFORD-EL V. BRITTON, IN AFFIRMING THE LOWER
5 COURT'S SUA SPONTE DISMISSAL OF AGUILAR'S CLAIM -
6 WITHOUT SO MUCH AS ADDRESSING ONE POINT OF THE
7 MERITS IN HIS OPENING BRIEF - THE NINTH CIRCUIT
8 DEFIED THIS COURT'S BAN WHEN IT HELD "AGUILAR
9 FAILED TO ALLEGUE FACTS SUFFICIENT TO SHOW THAT
10 DEFENDANT COCA ACTED WITH A RETALIATORY MOTIVE."
11 Appendix B. IN ITS SELECTIVE APPLICATION OF THE FACTS,
12 THE NINTH CIRCUIT ALSO HELD THAT "THE TIMING OF
13 ADVERSE ACTIONS ALONE IS INSUFFICIENT TO ESTABLISH
14 RETALIATORY MOTIVE." Id. (UNDERLINE ADDED). AGUILAR
15 SUBMITS THAT ORDERING SUBORDINATES TO KEEP THE
16 IDENTITY OF A PRISON OFFICIAL SECRET WHILE HE IS
17 ACTING UNDER THE COLOR OF STATE LAW SCREAMS
18 "GUILTY!" SEE APPENDIX A AT 12 ("LATER THE SAME
19 DAY WHEN AGUILAR MET WITH RIVAS AND ASKED THE
20 OFFICER WHAT HAD ISSUED THE ORDER TO TAKE HIS
21 APPLIANCES AND COMMISSARY, RIVAS STATED, 'I WAS TOLD
22 NOT TO TELL YOU!").

I. Provisional AND Premise

As provided by Supreme Court Rules B.S. 21, 22, 30 and 32.2, Petitioner Michael Edward Aguilar, as the single party, begs for a sixty day extension of time for the filing of a petition for a writ of certiorari. See Madden v. Texas, 498 U.S. 1301, 111 S. Ct. 902, 112 L. Ed. 2d 1026 (1991).

The questions Aguilar intends to present in the petition originate from a 42 U.S.C.S. § 1983 prisoner-first-amendment-retaliational claim, which arose while he was serving a state court imposed 11.25-year prison term for two counts of attempted armed robbery. State of Arizona v. Michael Edward Aguilar, Pima County Superior Court No. CR20121308-001; see also State v. Aguilar, 2014 Ariz. App. L.J. RLB. LEXIS 1557, at *2-5 (Ct. App. Dec. 24, 2014) (planted BB gun with neither DNA nor fingerprint belonging to Aguilar admitted into evidence at trial through hearsay testimony deemed harmless error); Aguilar v. Shin, 2022 U.S. Dist. LEXIS 157454, at *12-13 (D. Ariz. Aug. 30, 2022) ("Aguilar argues that his counsel should have used evidence of communications in his cell phone to impeach S.B.'s testimony that S.B. did not know Aguilar."); Aguilar v. Shin, 2023 U.S. App. LEXIS 14999 (9th Cir. Jun. 15, 2023) (Denying certificate of appealability because Aguilar failed to show "jurists of reason

1 WOULD FIND IT DEBATABLE WHETHER THE PETITION STATES
2 A VALID CLAIM OF THE DENIAL OF A CONSTITUTIONAL
3 RIGHT...."). THE RECORD LEAVES NO DOUBT, WHEN THE
4 NAMED RESPONDENT RETALIATED AGAINST PETITIONER FOR
5 ASSISTING A FELLOW PRISONER FILE A GRIEVANCE, SEE
6 APPENDIX A AT 11-17, AGUILAR WAS AN INNOCENT MAN
7 AND VICTIM OF A FARCE AND A SHAM. SEE AGUILAR
8 V. RYAN, 4:15-cv-00286-LCK AT DOC. 1 (JULY 6, 2015);
9 AGUILAR V. SHINDL, 4:19-cv-00359-JGZ AT DOC. 1 (JULY
10 15, 2019); SEE ALSO AGUILAR V. UNITED STATES DIST.
11 COURT FOR THE DIST. OF ARIZONA (IN RE AGUILAR), 22-
12 70207 AT DktENTRY 1 (9TH CIR. SEP. 16, 2022) (FULL
13 ACCOUNT OF ALL FACTORS SURROUNDING MANIFEST INJUSTICE).
14

15
16 WITHIN SUCH A CONTEXT, AGUILAR BEGS THE
17 FOLLOWING BE DETERMINED AS GOOD CAUSE FOR THE
18 COURT TO GRANT HIM A SIXTY DAY EXTENSION TO
19 FILE A PETITION FOR A WRIT OF CERTIORARI.

20 21 II. GOOD CAUSE

22
23 TITLE 28 U.S.C.S. SECTION 2101 PROVIDES FOR
24 "[A] JUSTICE OF THE SUPREME COURT, FOR GOOD
25 CAUSE SHOWN, MAY EXTEND TIME FOR APPLYING FOR A
26 WRIT OF CERTIORARI FOR A PERIOD NOT EXCEEDING
27 SIXTY DAYS." 28 U.S.C.S. § 2101(c). "THE PURPOSE
28 OF STATUTES LIMITING THE PERIOD OF APPEAL IS TO

1 SET A DEFINITE POINT OF TIME WHEN LITIGATION
2 SHALL BE AT AN END... TO ADVISE PROSPECTIVE
3 APPELLEES THAT THEY ARE FREED OF APPELLANT'S
4 DEMANDS." MATTON S.B. CO. V. MURPHY, 319 U.S. 412,
5 413, 63 S. CT. 1126, 87 L. ED. 1483 (1943). THE OPERATIVE
6 COMPLAINT AT BAR WAS DISMISSED SUA SPONTE BY
7 THE DISTRICT COURT. SEE APPENDIX A AT 9. UNTIL
8 THE SOLE DEFENDANT NAMED IN THE COMPLAINT IS
9 SERVED WITH IT BY RULE A "PROSPECTIVE APPELLEE"
10 EXISTS IN THEORY, ALONE. HENCE, TIME NO LONGER IS
11 OF THE ESSENCE.

13 A. THE QUESTIONS

15 CRAWFORD-EL V. BRITTON, 523 U.S. 574,
16 118 S. CT. 1584, 140 L. ED. 2d 759 (1998), HAS, FOR ALMOST
17 ONE QUARTER OF A CENTURY, GOVERNED OVER THE
18 PRISONER-FIRST-AMENDMENT-RETALIATION PLEADING ANA-
19 LYTICAL STANDARD: "NEITHER THE TEXT OF § 1983 OR
20 ANY OTHER FEDERAL STATUTE, NOR THE FEDERAL RULES
21 OF CIVIL PROCEDURE, PROVIDES ANY SUPPORT FOR IMPOSING
22 THE CLEAR AND CONVINCING BURDEN OF PROOF ON PLAIN-
23 TIFFS EITHER AT THE SUMMARY JUDGMENT STAGE OR
24 THE TRIAL ITSELF." 523 U.S. 574 AT 594. YET, TODAY,
25 THE STANDARDS APPLIED TO THE PRISONER-FIRST-AMEND-
26 MENT-RETALIATION INQUIRY ARE AS DIVERSE AND BUR-
27 DENSONE AS A MIDDLE EASTERN CONFLICT. SEE, E.G., A-
28 GUILAR V. COCA, 2021 U.S. DIST. LEXIS 199817, AT *12

1 (D. ARIZ. OCT. 15, 2021) ("THE PLAINTIFF HAS THE BUR-
2 DEN OF DEMONSTRATING THAT HIS EXERCISE OF HIS
3 FIRST AMENDMENT RIGHTS WAS A SUBSTANTIAL OR
4 MOTIVATING FACTOR BEHIND THE DEFENDANT'S CONDUCT.");
5 AGUILAR V. COCA, 2023 U.S. APP. LEXIS 4290 AT AP-
6 PENDIX B BELOW ("THE DISTRICT COURT PROPERLY DIS-
7 MISSED AGUILAR'S ACTION BECAUSE AGUILAR FAILED TO
8 ALLEGE FACTS SUFFICIENT TO SHOW THAT DEFENDANT CO-
9 CA ACTED WITH A RETALIATORY MOTIVE."). "THE UNPREC-
10 EDEDENTED CHANGE MADE BY THE COURT OF APPEALS IN
11 THIS CASE [] LACKS ANY COMMON LAW PEDIGREE AND ALTERS
12 THE CAUSE OF ACTION ITSELF IN A WAY THAT UNDERMINES
13 THE VERY PURPOSE OF § 1983 - TO PROVIDE A REMEDY
14 FOR THE VIOLATION OF FEDERAL RIGHTS." CRAWFORD-EL,
15 S23 U.S. AT 594-595. "IRONICALLY, THE HEIGHTENED STANDARD
16 OF PROOF DIRECTLY LIMITS THE AVAILABILITY OF THE REM-
17 EDY IN CASES INVOLVING THE SPECIFIC EVIL AT WHICH THE
18 CIVIL RIGHTS ACT OF 1871 (THE PREDECESSOR OF § 1983)
19 WAS ORIGINALLY AIMED - RACE DISCRIMINATION." SEE HAN-
20 ROE V. PAPER, 305 U.S. 167, 174-175, 5 L.ED. 2d 492, 81
21 S. CT. 473 (1961). CRAWFORD-EL AT N. 16.

22
23 Aguilar assures the court that the diver-
24 sity over the prisoner-First-Amendment-retaliation
25 claim concerning the application of analytical stan-
26 dards is more helter-skelter than ever before,
27 because of an exponential increase in cases of pri-
28 son-official retaliation in direct correlation with

1 THE DEMANDS REQUIRING THE EXHAUSTION OF ADMINI-
2 STRATIVE REMEDIES UNDER THE PRISON LITIGATION RE-
3 FORM ACT. THE PRISONER-FIRST-AMENDMENT-RETA-
4 LIATION ENIGMA HAS AT ITS CORE AN OBSTRUCTION TO THE
5 COURTS. IT HAS NOTHING TO DO WITH THE "PUBLIC-CON-
6 CERN IMPLICATIONS WHICH NORMALLY FRAME FIRST A-
7 MENDMENT DEBATE. THE PRISONER-FIRST-AMENDMENT-
8 RETALIATION RIDDLE IS SOLVED WITHIN THE PETITION
9 CLAUSE CONTEXT AS A DISTINCT AND NOVEL ISSUE, WHERE
10 CHRONOLOGY AND LEGITIMATE-PENOLOGICAL-INTEREST ACT
11 AS THE CONTROLLING BENCHMARKS IN THE COURT'S COM-
12 MON LAW CRAFTING OF A SET OF OBJECTIVE ANALYTICAL
13 STANDARDS FOR THE PRISONER-FIRST-AMENDMENT-RE-
14 TALIAATION INQUIRY.

15
16 BECAUSE AGUILAR HAS SPENT ALMOST THIRTY-
17 FIVE YEARS IN NAILS AND PRISONS HE MUST BE VIEWED
18 BY THE COURT AS AN EXPERT WITH VALUABLE INSIGHT.
19 ALLOWING HIM AN ADDITIONAL SIXTY DAYS TO FURTHER
20 RESEARCH AND DEVELOP HIS PETITION FOR A WRIT OF
21 CERTIORARI WILL PROVIDE THE COURT WITH AMPLE IN-
22 FORMATION CONCERNING THE URGENT DEMAND FOR UNI-
23 FORMITY WITHIN THE PRISONER-FIRST-AMENDMENT-RE-
24 TALIAATION CONTEXT. THERE EXISTS A DIRE NEED FOR
25 ADDITIONAL INERTIA TO THE MOMENTUM AN HONORABLE
26 CHAMPION HAD THE COURAGE TO ACTIVATE: "AGAIN, THE
27 CHANGES NECESSARY TO ALLEVIATE THE RISK OF HARM
28 TO THE SUBCLASS WILL BE SUBSTANTIAL. GIVEN THE

1 SUBSTANTIAL DYSFUNCTION IN DEFENDANTS' OPERA-
2 TIONS, THE COURT WILL PROVIDE SIGNIFICANT DETAIL
3 REGARDING MEDICAL CARE, MENTAL HEALTH CARE, AND
4 CONDITIONS IMPOSED ON THE SUBCLASS TO REMEDY
5 THE EUREGIONAL CONSTITUTIONAL VIOLATIONS." JENSEN
6 V. THORNELL, 2023 U.S. DIST. LEXIS 161747, AT *10
7 N.2 (D. ARIZ. APR. 07, 2023) (DISTRICT JUDGE
8 HONORABLE ROSLYN O. SILVER GRANTING PERMANENT
9 INJUNCTIVE RELIEF TO THE PRISONERS OF THE ARIZONA
10 DEPARTMENT OF CORRECTIONS REHABILITATION AND REENTRY
11 SUCH AS KENDALL JOHNSON). "JOHNSON'S TREATMENT
12 WAS FAR FROM NEGLIGENT. IT WAS - AND MAY CONTINUE
13 TO BE - A PARADIGMATIC EXAMPLE OF THE MOST CAL-
14 LOLS AND INHUMANE INDIFFERENCE." JENSEN V. SHAW,
15 609 F. SUPP. 3d 789, 825-826 (D. ARIZ. JUN. 30,
16 2022) ("JOHNSON EXPLAINED SHE PASSES TIME IN HER
17 HOUSING UNIT BY 'COUNTING THE CEILING TILES' BECAUSE
18 SHE DOES NOT GO OUTSIDE.").

20 B. A GOOD CAUSE AS GOOD CAUSE

21
22 WITHOUT A SIXTY DAY EXTENSION OF TIME,
23 AGUILAR MUST FILE HIS PETITION FOR A WRIT OF
24 CERTIORARI BY AUGUST 14, 2023. SEE APPENDIX
25 C. THE PETITION IS ONE OF FOUR LEGAL ACTIONS
26 PENDING UNDER THE NAME MICHAEL EDWARD AGUILAR.
27 CURRENTLY AS A DETAINEE IN THE PIMA COUNTY ADULT
28 DETENTIONAL COMPLEX (PCADC), AGUILAR IS A VERY BUSY

1 MAN. INDEED, AND CONTEXT MUST BE PROVIDED TO THE
2 COURT FOR INSIGHT AS TO WHY, ON JUNE 8, 2023,
3 THE HONORABLE ROSLYN O. SILVER INITIATED A NEW
4 CIVIL ACTION UNDER AGUILAR V. THORNELL, 4:23-CV-
5 00264-RCC (D. ARIZ.)

6
7 AFTER HIS ARREST OVER AN ACT OF SELF-
8 DEFENSE, ON MAY 5, 2022, SEE APPENDIX D, AGUILAR
9 WAS BOOKED INTO PCADC. STATE V. AGUILAR,
10 CR20221602-001. IN THE MIDDLE OF THE NIGHT, ON
11 JUNE 2, 2022, AGUILAR WAS TAKEN TO PCADC MEDICAL
12 UNIT AND TORTURED. SEE AGUILAR V. SHIND, 4:19-CV-
13 00359-JGZ AT DOCS. 83, 85. THE LAW IS BUT A
14 PUNCH LINE FOR PIMA COUNTY GOVERNMENT OFFICIALS:

15
16 "IT IS ABIDING TRUTH THAT 'NOTHING
17 CAN DESTROY A GOVERNMENT MORE
18 QUICKLY THAN ITS FAILURE TO OBSERVE
19 ITS OWN LAWS, OR WORSE, ITS DISREGARD
20 OF THE CHARTER OF ITS OWN EXISTENCE.'"

21
22 COOPER V. PIMA COUNTY SHERIFF DUNLIK, 903 F.2d
23 1220, 1223 (9TH CIR. 1992) (EN BANC) (QUOTING ORE-
24 GON V. HASS, 420 U.S. 714, 724-725, 43 L.ED. 2d 570,
25 95 S. CT. 1215 (1975) (BRENNAN, J., DISSSENTING) (QUOTING
26 HARRIS V. NEW YORK, 401 U.S. 222, 232, 28 L.ED. 2d 1,
27 91 S. CT. 643 (1971) (BRENNAN, J., DISSSENTING)))).
28

1. LOUIS C. TAYLOR

"[T]his prosecution relates in detail the horrifying sequence of events which transpired at the Pioneer International Hotel in Tucson the evening of December 19 and morning of December 20, 1970, and which resulted in the deaths of twenty-eight persons and injury to many others. STATE V. TAYLOR, 112 ARIZ. 69, 71, 537 P.2d 938, 941 (1975).

"Louis C. Taylor, [an Africa American] minor, was convicted of twenty-eight counts of first degree murder... and sentenced on each count to life imprisonment." [a. Taylor's "revelation of his activity that night and the manner in which he was handled by police is in conflict with the testimony of the various police officers and others with whom he came in contact." TAYLOR, 112 ARIZ. AT 72.

"A Caucasian man suspected of starting three other fires at the Pioneer Hotel was neither questioned nor investigated." TAYLOR V. COUNTY OF PIMA, 2017 U.S. DIST. LEXIS 222808, AT *4 (D. ARIZ. MAR 16, 2017).

"The deputy county attorney assigned to [Taylor's] prosecution was Horton Weiss, who was well known to the Arizona judiciary as an over-zealous and unethical prosecutor with a record of violating or potentially violating criminal defen-

1 DANTS' CONSTITUTIONAL RIGHTS." TAYLOR V. COUNTY OF
2 PIMA, SUPRA, AT *4-5. AT TRIAL AN "EXPERT" FOR
3 THE STATE "TESTIFIED HE BELIEVED [TAYLOR] WAS
4 GUILTY BECAUSE 'BLACK BOYS' ARE MORE LIKELY TO
5 START FIRES." Id. AT *5. AND BEFORE TRIAL, "WEISS
6 REFERRED TO A WHITE LAWYER REPRESENTING AN AF-
7 RICAN AMERICAN CRIMINAL DEFENDANT AS A 'NIGGER
8 LOVER.'" Id. AT *9.

9
10 Withheld from TAYLOR'S DEFENSE TEAM WAS
11 "EXCULPATORY EVIDENCE IN THE FORM OF A WRITTEN RE-
12 PORT KNOWN AS THE 'TRUESDAIL' REPORT, WHICH FOUND
13 THAT NO EVIDENCE OF ACCELERANTS WAS DISCOVERED
14 DURING POST-FIRE INSPECTIONS OF THE HOTEL." Id. AT *5.
15 "OVER FORTY YEARS LATER... A PANEL OF FIRE EXPERTS
16 WHO, AFTER REVIEWING ALL THE EVIDENCE IN [TAYLOR'S]
17 CASE, CONCLUDED THAT THE PIONEER HOTEL FIRE COULD
18 NOT BE CLASSIFIED AS ARSON." Id. AT *5-6.

19
20 Unfortunately, now that Louis C. Taylor seeks
21 justice:

22
23 On May 19, 2022, Plaintiff [Taylor]
24 filed a motion to file document un-
25 der seal. (Doc. 406.) In the motion,
26 Plaintiff requested leave to file a
27 witness declaration under seal and
28 argued that publicly revealing the

1 IDENTITY OF THE DECLARANT WOULD
2 SUBJECT THE DECLARANT TO SERIOUS
3 HARM OR DEATH.
4

5 TAYLOR V. COUNTY OF PIMA, 2022 U.S. DIST. LEXIS
6 1310272, AT BACKGROUND (D. ARIZ. JUL. 29, 2022). LET
7 THE COURT BE REMINDING COUNTY OF PIMA IS A STATE
8 GOVERNMENTAL ENTITY, NOT ORGANIZED CRIME.
9

10 2. THE PIMA COUNTY JAIL AKA. PCADC

11
12 A QUICK SEARCH REVEALS DETAINEE-DEATHS
13 IN PCADC ARE NOT THE EXCEPTION TO THE NORM. "ON
14 MAY 19, 2023, PLAINTIFF MICHAEL AGUILAR... FILED
15 A 'MOTION FOR ANCILLARY JURISDICTIONAL RELIEF' IN
16 JENSEN V. THORNELL, CV 12-00001-PHX-RDS (D. ARIZ.),
17 A CLASS ACTION LAWSUIT. AGUILAR V. THORNELL, SUPRA,
18 AT DOC. 3. "IN HIS MOTION, PLAINTIFF APPEARS TO SEEK
19 RELIEF PERTAINING TO THE CONDITIONS OF HIS CONFINEMENT
20 IN THE PIMA COUNTY ADULT DETENTION CENTER." Id.
21

22 AGUILAR MUST NOW FILE A 42 U.S.C.S. § 1983
23 PRISONER COMPLAINT ON OR BEFORE JULY 22, 2023, AND
24 BEGINS FOR THE COURT TO FIND GOOD CAUSE IN SUCH A
25 CAUSE. THROUGH FEAR AND INTIMIDATION PIMA COUNTY
26 HAS BECOME A RUTHLESSLY OFFICIAL CULTURE OF COR-
27 RUPTION. PLEASE ALLOW FOR AGUILAR'S WARRIOR FANTASIES
28 TO BE FULFILLED.

1 C. THE NOVEL CLAIM

2
3 IN STATE V. AGUILAR, CR20121308, SUPRA, ON
4 OCTOBER 30, 2013, THE STATE (1) ADMITTED A BB GUN
5 INTO EVIDENCE AT TRIAL THROUGH HEARSAY TESTIMONY,
6 AND (2) PUT A CRIME SCENE SPECIALIST ON THE STAND
7 TO TELL THE JURY NEITHER AGUILAR'S PRINTS NOR
8 DNA TESTED POSITIVE ON THE GUN. SEE AGUILAR V.
9 SHINN, 4:19-cv-00359-JGZ, Doc. 1 AT 6 ET SEQ. ON
10 THE FOLLOWING DAY, AT CLOSING REBUTTAL, ON SEVERAL
11 SEPARATE OCCASIONS THE STATE TOLD THE JURY "IT
12 DOESN'T HAVE TO BE THAT GUN" FOR THEM TO CONVICT.
13 Id. PERHAPS UNWISSE AS TRIAL STRATEGY, BUT THE STATE'S
14 PLOY WAS IN NO WAY NOVEL.

15
16 AGUILAR BEGAN DIRECTING POLICE TO HIS CELL
17 PHONE ON THE NIGHT IN QUESTION AS EVIDENCE THE DRUG-
18 DEALER AND TOPLESS DANCER ALLEGED VICTIMS HAD
19 LIED TO POLICE. Id. AT 17 ET SEQ. AFTER THE PHONE SAT
20 IN POLICE EVIDENCE FOR 529 DAYS, ON SEPTEMBER 11, 2013,
21 TRIAL COUNSEL SERVED VERIZON WIRELESS LEGAL COMPLI-
22 ANCE WITH A CRIMINAL SUBPOENA FOR AGUILAR'S CELL PHONE
23 RECORD. Id. ON OCTOBER 10, 2013, COUNSEL MOVED FOR AN
24 ORDER TO TAKE CUSTODY OF THE PHONE FROM POLICE. Id.
25 IN A VIDEO MADE, ON OCTOBER 21, 2013, COUNSEL IS RE-
26 PEATEDLY HEARD SAYING, "OH THAT'S HELPFUL," AS HER
27 INVESTIGATOR READS ALOUD TEXT MESSAGES FROM AGUI-
28 LAR'S PHONE. Id. ON OCTOBER 29, 2013, AFTER THE CONCLUSION

1 OF YOUR DURE, THE STATE ANNOUNCED ON RECORD HE WOULD
2 ORDER THE CASE DETECTIVE TO DELIVER THE DANCER AND
3 DRUG-DEALER TO TRIAL ON THE FOLLOWING DAY. Id. It is
4 AT THIS POINT THAT TRIAL COUNSEL GRABBED AGUILAR'S
5 PHONE OFF THE EVIDENCE TABLE AND ALLOWED THE
6 STATE TO REVIEW ITS CONTENT. Id. On THE FOLLOWING DAY
7 ONLY THE DRUG-DEALER WAS DELIVERED TO TRIAL. Id.

8
9 At THE END OF HIS TESTIFYING THE DRUG-DEAL-
10 ER WAS ASKED BY A JUROR IF HE KNEW AGUILAR PRIOR
11 TO THE NIGHT IN QUESTION. AGUILAR v. SHIND, 4:19-cr-
12 00559-JGZ, Doc. 1 AT 17 ET SEQ. HE ANSWERED IN THE
13 NEGATIVE, AND AGUILAR IMMEDIATELY WROTE THE FOLLOWING
14 ON A NOTEPAD RESTING IN FRONT OF TRIAL COUNSEL:

15
16 WE CAN PROVE HE'S LYING HIS #s
17 IN MY PHONE HE CALLED ME IN
18 THE PAST

19
20 Id. COUNSEL READ THE NOTE BUT DID NOT USE THE PHOENIX
21 TO IMPEACH THE DRUG-DEALER. Id.

22
23 On FEBRUARY 27, 2018, TRIAL COUNSEL TESTIFIED
24 THAT HER INVESTIGATOR HAD RECENTLY INFORMED HER IN
25 2014 HE MAILED THE PHONE TO AGUILAR AT A PRISON
26 IN BUCKEYE, ARIZONA. Id. On APRIL 2, 2018, THE INVESTI-
27 GATOR TESTIFIED THAT HE TOLD COUNSEL NO SUCH THING.
28 Id. WHAT THE INVESTIGATOR STATED HE HAD RECENTLY