24-5186

ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES

ISSA DOREH

Petitioners,

v.

UNKNOWN RODRIGUEZ, et al.,

Respondent.

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

Petitioner, ISSA DOREH, Pro se litigant, respectfully requests that the Court issue a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit, entered on January 19,2024, and the petition for rehearing was denied on April 29, 2024.

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QUESTIONS PRESENTED FOR REVIEW

1. Whether the district court and court of appeal erred in finding that Doreh had failed to exhaust administrative remedies in count one?
2. Whether the district court erred in dismissing Count Two and Three, and the Ninth Circuit erred in affirming the decision of the District Court?

LIST OF PARTIES

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

Petitioner is not aware of any related cases that should be considered with this appeal.

IV. FEDERAL STATUTES

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.

V. OPINION BELOW

[x] For cases from federal courts:

The opinion of the United States Court of Appeals appears at Appendix A to the petition and is unpublished.

The opinion of the United States District Court appears at Appendix B to the petition and is unpublished.

VI. JURISDICTION

[x] For cases from federal courts:

The date on which the United States Court of Appeals decided my case was January 19, 2024. A timely filed petition for rehearing was denied by the United States Court of Appeals on April 29, 2024, and a copy of the order denying rehearing appears at Appendix C. Petitioner files

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present Petition for Writs of Certiorari within 90 days after the 9th Circuit denying the petition for rehearing pursuant to the rules 13.1, and under 28 U.S.C. section 1254 (1).

VI. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

a. The Eighth Amendment prohibition include, "cruel and unusual punishment." U.S. Const. amend. VIII.

b. The First and Sixth Amendment "prohibit inmates' legal mail without their presence." U.S. amend. I & VI.

c. Violation under the PLRA. 42 U.S.C. § 1997e(a).

d. Violation under the (28 C.F.R. §5800.16(3.9)).

e. Violation under the 28 C.F.R. §5800.10.

CASE HISTORY

On February 26, 2016, the plaintiff, Doreh, filed a grievances in the District of Arizona, Tucson, raising Three Counts against BOP staff, pursuant to Bivens v. Six Unknown named Agents of Federal Bureau of Narcotics, 403 U.S. 338 (1971).

Count One, the Unit manager, Rodriguez, Count Two, the food administrator, Mr. Pratt, and Count Three, Ms. Molinar, the mailroom supervisor.

On May 17, 2016 Order, the Court dismissed the complaint for failure to state a claim.

On August 15, 2016, Plaintiff filed notice of change of address reflecting that he had been transferred to the Federal Correctional Institution in Lompoc, California.

On September 2, 2016, because the case was closed, Plaintiff filed a motion for reconsideration (Doc.14), and on September 9, 2016, Plaintiff lodged a proposed First Amended Complaint.

On May 18, 2017, Plaintiff filed the Second Amended Complaint, and the Court dismissed the Second Complaint, July 21, 2017.

On May 15, 2018, Plaintiff filed Appeal to the Ninth Circuit against the District Court's Dismissal.

On May 22, 2018, the Ninth Circuit reversed and remanded to the District Court, and liberally construed that these Three Counts Allegations are sufficient to state a constitutional violation.

On December 2, 2021, the Court held an evidentiary hearing to assess the narrow issue of whether Plaintiff exhausted available prison administrative remedies as to a single grievance (Remedy ID #854264) pertaining to Count One as to one Defendant (Maria Rodriguez).

On March 11, 2022, the District Court dismissed Count One against Defendant Rodriguez.

On March 21, 2022, Plaintiff re-appealed the decision of the District Court seeking the Ninth Circuit appellate review.

On March 24, 2022, Appellate Court made TIME SCHEDULE ORDER an Appellant's Opening Brief.

On July 29, 2022, Plaintiff submitted and served the Opening Brief.

On January 19, 2024, Appellate Court denied Plaintiff's Opening Brief and affirmed the District Court's Dismissal.

On 01/25/2023, Plaintiff submitted rehearing motion.

On April 29, the Appellate Court denied timely filed rehearing motion.

IX. STATEMENT OF THE FACTS

A. Undisputed Facts

1. Count One: (M. Rodriguez, the unit manager)

a. There is no dispute that the Petitioner had a medical disability Housing Status Pass-Card (first-floor, lower bunk) to minimize the risk of injury or accommodate a disability. See Attachment-R1 (Appendix D, pages 67 and 80). Additionally, Rodriguez violated the medical order by disregarding the institution's mandatory medical instructions for disability housing requirements under the Rehabilitation Act of 1973, 29 U.S.C. § 794(a).

b. The Petitioner informed the Unit Manager, Ms. Rodriguez, of his urgent situation by submitting a BP-8 form on January 26, 2016. He complained about being moved from the first floor of the Palo Verde housing units to the second floor of the Saguaro housing units, despite his medical order pass. See Attachment-R2 (Appendix D, pages 67 and 81).

c. On February 12, 2016, the Petitioner met with his counselor, Mr. Ashworth, to inquire about the outcome of the BP-8 form submitted on January 26, 2016. The Petitioner requested to be moved back to the first floor and a lower bunk in the Palo Verde housing units as mandated by his medical order. Mr. Ashworth, citing Ms. Rodriguez's statement, informed the Petitioner: "At this time, per Mrs. Rodriguez, you are not moving to another unit, but you can move to another cell within the unit." See Attachment-R3 (Appendix D, pages 67 and 82).

d. As a result, on February 16, 2016, four days later, the Petitioner fell for the second time on the second floor of the Saguaro housing unit, injuring his back and knees. See Attachment-R4 (Appendix D, pages 67 and 83).

e. Additionally, the U.S. District Court noted: "On December 2, 2021, the Court held an evidentiary hearing to assess whether the Plaintiff exhausted available prison administrative remedies for a single grievance (Remedy ID #854264) related to Count One against Defendant Maria Rodriguez." See (Appendix B, Doc.119, page 29).

f. The U.S. District Court noted: "On June 20, 2016, Plaintiff was transferred out of the Tucson Federal Correctional Complex. (Id.)" See (Appendix A, Doc.89, page 40).

g. Now, **there is no dispute** that Doreh left F.C.I. in Tucson, AZ, on June 20, 2016.

h. **It is undisputed** that Unit Manager, Rodriguez posted and made available the remedy (ID# 854264-R1) **on Sunday, July 3, 2016**, fourteen days after Doreh left Tucson, AZ. See Attachment-R15 (Appendix D, pages 69, 70 and 94).

i. **It is unacceptable** that both the Defendant's counsel and the Court, despite the clearly specified response due date for this Remedy (ID# 854264-R1) **of Sunday, July 3, 2016**, have argued otherwise; contrary to commonsense!

Therefore, **it is indisputable** that the U.S. District Court's assertion—that the Petitioner did not appeal the Regional Director's decision to the General Counsel regarding remedy (ID# 854264-R1)—is incorrect, as evidenced by the Attachment-R15 (Appendix D, pages 69, 70 and 94). See also (Appendix B, Doc. 89, page 45).

Hence, as shown at the Attachment-R15, Petitioner fully exhausted, and the Defendant deliberately violated under the PLRA. 42 U.S.C. § 1997e(a); See, Albino v. Baca (9th Cir. 2014) 747 F.3d 1162, 1173 ("In Sapp v. Kimbrell, 623 F.3d 813 (9th Cir.2010); Woodford v. NGO 548 U.S. 81, 89 (2006).

2. Count Two (W. Pratt, food administrator)

a. **There is no dispute** that Doreh submitted (BP-11) on July 31, 2015, to the Central Office. See Attachment-P19 (Appendix D, pages 75 and117).

b. On July 31, 2015, Doreh submitted (BP-11) to the General Counsel, complaining against food administrator, Warden, and Regional Director by not addressing his urgent call for continuous serving expired food. Again, See Attachment-P19 (Appendix D, pages73 and117).

c. On September 21, 2015, the General Counsel responded from the (BP-11) saying (your appeal is untimely; provide staff verification that wasn't your fault, and not more than one page to attach). See Attachment-P20 (Appendix D, pages 75 and118).

d. On October 23, 2015, Petitioner's Counselor M. Ruiz, after Petitioner showed the response from the General Counsel then she wrote a note telling the delay of the 'remedy # 814483-Al' was our error, not Petitioner's fault. See Attachment-P21 (Appendix D, pages 76 and119).

e. On November 3, 2015, the General Counsel received Petitioner's verification prove letter that delayed (BP-10) was not Petitioner's fault. See Attachment-P22 (Appendix D, pages 76 and120). The General Counsel neither responded back to Petitioner nor fixed the issue of complain at all, and because of the General Counsel knew that the food was outdated since from the Region to the Institution's food administrator officers never denied that the food was expired.

f. On March 3, 2016, Petitioner submitted (BP-8) complaining about vegetable juice which was expired on 2012, and requested substitutable drinks, but Defendant Pratt never changed it. See Attachment-P23 (Appendix D, pages 76 and121).

Hence, throughout all the above-mentioned attachments, Pratt, food manager, violated the Eighth Amendment right. *"Adequate food is a basic human need protected by the Eighth Amendment." Keenan v. Hall, 83 F.3d 1083, 1091 (9th Cir.1996). However, the Ninth Circuit*

has found that "[t]he sustained deprivation of food can be cruel and unusual punishment when it results in pain without any penological purpose." Foster v. Runnels, 554 F.3d 807, 812-13 (9th Cir. 2009) (finding the denial of sixteen meals in twenty-three days a sufficiently serious deprivation for Eighth Amendment purposes).

Therefore, the Petitioner had exhausted the Remedy (ID: #814483-A2), which was no longer available to him, contrary to the Defendant's counsel's assertion. *See Marella v. Terhune, 568 F.3d 1024 (9th Cir. 2009); see also Doe v. U.S., 419 F.3d 1058, 1063 (9th Cir. 2005).*

3. Count Three: (Molinar, mailroom supervisor)

a. On February 12, 2014, Petitioner submitted a copout to the mail-room supervisor, L. Molinar, and gave a heads-up warning not to open his legal mail without his presence.

b. On February 20, 2014, Molinar responded the copout by signing and returning to Petitioner without any comments. See Attachment-M1(Appendix D, pages 77 and124).

c. On September 28, 2015, Petitioner's legal mail was opened again, by Molinar, without his presence; Petitioner filed a (BP-8) form to give the Mail-room Supervisor a second warning of not to open his legal-mail without his presence. See Attachment-M2(Appendix D, pages 77 and 125).

d. On October 1, 2015, Molinar responded from the (BP-8) saying that the legal-mail was opened by accident, and we'll take care of it. See Attachment-M3 (Appendix D, pages, 77 and 126).

f. On October 6, 2015, Doreh accepted the informal resolution, trusting Molinar's promise not to open again his legal-mail without his presence, and dropped the (BP-8) complain. See the bottom of the Attachment-M2(Appendix D, pages 77 and125).

g. On November 17, 2015, the Unit officer, Mr. Bracamontes, gave Petitioner a legal-mail which was already opened. See Attachment-M4(Appendix D, pages 77 and127).

h. On November 18, 2015, Doreh filed (BP-8) complaining opening his legal-mail without his presence. See Attachment-M5 (Appendix D, pages 77 and128).

i. On November 20, 2015, Molinar responded saying: "Cannot make an accurate determination without physical evidence..."). See Attachment-M6 (Appendix D, pages 77 and129).

j. On December 8, 2015, Petitioner filed (BP-9) regarding L. Molinar's constant openings for Petitioner's legal-mail without his presence. See Attachment-M7 (Appendix D, pages 77 and130).

k. Warden got (BP-9) on 12/11/2015, and responded on 12/22/2015, agreeing Molinar's wrong doings of opening Petitioner's legal mail without his presence. See Attachment-M8 (Appendix D, pages 77 and131).

l. On February 4, 2016, Petitioner submitted (BP-10) to the Region.

m. The Region rejected for the untimely submission (MEM). See Attachment-M9 (Appendix D, pages 77, 78 and132).

n. On February 23, 2016, Petitioner met his counselor, Mr. T. Ashworth, and told that his (BP-10) was rejected by the Region for untimely submission, and the Counselor clearly stated that the (BP-10) delay was staff error, not Petitioner's fault. See Attachment-M10(Appendix D, pages 78 and133).

o. On March 7, 2016, Petitioner resubmitted the (BP-10) to the Region. See Attachment-M11(Appendix D, pages 78 and134).

p. On March 29, 2016, the Regional Director, M. Mitchell, responded the (BP-10), and agreed with Warden's denial decision. See Attachment-M12 (Appendix D, pages 78 and135).

q. On April 19, 2016, Doreh sent an email to Warden, Ms. McClintock, that Petitioner only got (BP-10, No. 845285-R2 & 842385-R2) without (BP-9s, No. 845285-F1&842385-F1). See Attachment-M13 (Appendix D, pages 78 and136).

r. In order to submit (BP-11) there must be accompanied by copy of both (BP-10&BP-9). See Attachment-M14 (Appendix D, pages 78 and 137). (**Section: b. Form**).

s. On April 26, 2016, Petitioner submitted (BP-11) to the General Counsel without copy of (BP-9) because the Unit manager delayed (BP-9s) on purpose by extending it to (29) days (from the Warden's response, December 22, 2015 to January 20, 2016). See Attachment-M15(A) (Appendix D, pages 78 and138).

t. On May 9, 2016, Central Office responded and rejected the (BP-11) and requested from Petitioner to resubmit the (BP-9) response from the Institution's Warden. See Attachment-M16 (Appendix D, pages 78 and139).

u. Rule: if the inmate doesn't receive a response within the time assigned for reply, then inmate has a right to step into the next level. See Attachment-M17(Appendix D, pages 78 and140 (Response time §542.18)).

Moreover, on January 22, 2016, when Petitioner filed another (BP-8) for the third warning. See Attachment-M18 (Appendix D, pages 78 and141) complaining about opening his legal mail without his presence, Molinar responded to Petitioner saying: "An inmate cannot dictate what mail can or cannot be opened." See Attachment-M19(Appendix D, pages 79 and142).

Hence, Molinar, violated Petitioner's First & Sixth Amendment rights by opening his legal-mail without his presence for several times. See Hayes v. Idaho Corr. Ctr., 849 F.3d 1204, 1210-11 (9th Cir. 2017) (prisoners have a First Amendment right to have their legal mail opened in their presence, and "[t]wo or three pieces of mail opened in arbitrary or capricious way suffice

to state a claim" (internal quotation marks omitted)); *Mangiaracina v. Penzone, 849 F.3d 1191, 1196-97 (9th Cir. 2017) (Sixth Amendment requires a prisoner be present when legal mail is inspected; even a single incident may give rise to a constitutional violation).*

Therefore, the appellate court's denial of the case on January 19, 2024, and the District Court's dismissal of the case on March 14, 2022, ruling the Remedy (ID # 854264-R1) as unexhausted, was clearly grievous, erroneous, and inadequate decision. As stated, "In judicial rulings, judgments don't always mirror the truth." As a matter of law, this Court should reverse both the lower courts' judgments based on the petitioner's step-by-step undisputed facts presented in this petition. See Miller v. Thane Int'l, Inc., 519 F.3d 879, 888 (9th Cir. 2008) (concluding the district court clearly erred).

X. REASONS FOR GRANTING THE WRIT

1. EIGHTH AMENDMENT RIGHT VIOLATED

a. Rodriguez, the Unit Manager, violated Petitioner's Eighth Amendment rights by assigning him to the second floor more than twice, despite his mandatory medical order requiring first-floor, lower-bunk housing. Refer to the Undisputed Facts section and see Attachment-R1 (Appendix D, pages 65 and 78).

b. As a result, on February 16, 2016, the Petitioner fell on the second-floor stairs for the second time at Saguaro Housing Unit, injuring his back and knees. See Attachment-R4 (Appendix D, pages 65 and 83).

c. Rodriguez, intentionally disregarded the Petitioner's mandatory medical housing status, and continued to assign him to the second floor and upper bunk. See Jett v. Penner, 439 F.3d 1091, 1096 (9th Cir. 2006) (citing Estelle v. Gamble, 429 U.S. 97, 104 (1976)). Deliberate

indifference is demonstrated when a prison official "knows of and disregards an excessive risk to inmate health or safety; the official must be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference." Farmer, 511 U.S. at 837; see Mata v. Saiz, 427 F.3d 751 ("A prison official's deliberate indifference to an inmate's serious medical needs is a violation of the Eighth Amendment's prohibition against cruel and unusual punishment.").

d. Additionally, Rodriguez deliberately delayed the Petitioner's submitted grievances to the Institution's Warden, which complained about his excruciating back pain and worsening conditions. See Attachment-R15 (Appendix D, pages 70, 71 and 94).

e. Furthermore, Rodriguez made Remedy ID # 854264-R1 unavailable to the Petitioner, violating the PLRA. *See 42 U.S.C. § 1997e(a). See Woodford v. NGO 548 U.S. 81 (2006).*

2. AGAIN EIGHTH AMENDMENT RIGHT VIOLATED

a. Mr. Pratt, the food manager, served food that was more than two years outdated and expired, resulting in the Petitioner suffering severe sickness, including vomiting, body rashes, and constant stomach aches. See Attachment-P19 (Appendix D, pages 75 and117).

b. *See also, "Adequate food is a basic human need protected by the Eighth Amendment." Keenan v. Hall, 83 F.3d 1083, 1091 (9th Cir.1996).*

Foster v. Runnels, 554 F.3d 807, 812-13 (9th Cir. 2009) (finding the denial of sixteen meals in twenty-three days a sufficiently serious deprivation for Eighth Amendment purposes).

c. Hence, Pratt caused the Petitioner substantial risk feeding more than two years expired food, violating Eighth Amendment right cruel and unusual punishment. *See Ashcroft v. Iqbal 556 U.S. 662, 698 (2009).*

3. FIRST & SIXTH AMENDMENT RIGHTS VIOLATED

a. The mailroom supervisor, Molinar, repeatedly opened the Petitioner's legal mail, violating the Petitioner's First and Sixth Amendment rights. Despite the Petitioner submitting a heads-up note to Molinar more than three times, she disregarded it, stating, 'An inmate cannot dictate what mail can or cannot be opened.' See Attachment-M19(Appendix D, pages 75 and139). Refer to Section A: Undisputed Facts on pages 10 and 12 for further details.

b. The mailroom supervisor equally violated Federal Bureau of Prisons' legal mail policy, Rules: 28 C.F.R. §5800.10 & 28 C.F.R. §5800.16(3.9)). (Open Only Inmate Presence). See Hayes v. Idaho Corr. Ctr., 849 F.3d 1204, 1210-11 (9th Cir. 2017) (prisoners have a First Amendment right to have their legal mail opened in their presence, and "[t]wo or three pieces of mail opened in arbitrary or capricious way suffice to state a claim" (internal quotation marks omitted)); *Mangiaracina v. Penzone, 849 F.3d 1191, 1196-97 (9th Cir. 2017) (Sixth Amendment requires a prisoner be present when legal mail is inspected; even a single incident may give rise to a constitutional violation).*

Therefore, to protect our country's Constitution and lawful civil codes, the Supreme Court should seriously consider constitutional violations in this regard, not only for the Petitioner but also for others who suffer and experience similar situations throughout the nationwide, especially those who are helpless, powerless, and unabatedly abused by prison administrators. Wolff v. McDonnell 418 U.S. 539, 541 (1974); Shelley v. Dugger 833 F.2d 1420, 1421 (11th Cir. 1987).

4. Count Two & Three Were Dismissed 'under Bivens' Remedy by The District Court Unreasonably and Appellate Court Affirmed Incorrectly

i. The U.S. District noted: "Accordingly, the Court finds Plaintiff's Eighth Amendment threat-to-safety claim does not expand the Bivens remedy." (Appendix B, Doc.60, page12/60). The Court's assertion is based on assumption that "Bivens Remedy" will invalidate prisoners'

constitutional right but, matter of fact, the opposite is true: ("*The Supreme Court in Estelle v. Gamble, 429 U.S. 97 (1976), held that a prisoner may state a cause of action under § 1983 upon showing that a prison official was deliberately indifferent to his serious illness or injury.*").

ii. In Carlson's case, the prisoner died due to personal injuries sustained from prison officials' violation of his Eighth Amendment rights by failing to provide adequate medical attention.

iii. Likewise, the Petitioner might have suffered fatal injuries from falling on the second-floor stairs twice due to the personal injuries inflicted by his unit manager, Rodriguez, who violated his Eighth Amendment rights by denying his mandatory medical prescription for a first-floor, lower bunk assignment. See Attachment-R1 (Appendix D, pages 67 and 80).

iv. Consequently, on February 16, 2016, the Petitioner fell for the second time on the stairs of the Saguaro Unit, resulting in injuries to his back and knee. See Attachment-R4 (Appendix D, pages 67 and 83).

v. Despite the Institution's mandatory medical order, Rodriguez intentionally and knowingly disregarded the substantial risk of serious harm. See (Carlson v. Green, 446 U.S. 14 (1980): "Bivens established that the victims of a constitutional violation by a federal agent have a right to recover damages against the official in federal court despite the absence of any statute conferring such a right." See also: *Mata v. Saiz* (10th Cir. 2005) 427 F.3d 745, 751 ("A prison official's deliberate indifference to an inmate's serious medical needs is a violation of the Eighth Amendment's prohibition against cruel and unusual punishment. *Estelle v. Gamble,* 429 U.S. 97, 104, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976). ").

Here is a comparison outlining the similarities between the Petitioner's case and Carlson's case:

1. **Eighth Amendment Violation**:
    - **Petitioner**: Alleges violation of his Eighth Amendment rights due to denial of mandatory medical prescription for a first-floor, lower bunk assignment, resulting in severe personal injuries.
    - **Carlson**: Claimed Eighth Amendment violation due to inadequate medical care that led to his death.
2. **Denial of Medical Needs**:
    - **Petitioner**: Suffered falls and injuries because his medical needs for a first-floor and lower bunk assignment were ignored.
    - **Carlson**: Received insufficient medical treatment for his asthma, which ultimately led to his death.
3. **Bivens Remedy**:
    - **Petitioner**: Seeks a remedy under the Bivens doctrine for the alleged constitutional violation.
    - **Carlson**: The Supreme Court recognized a Bivens remedy for the violation of his Eighth Amendment rights due to inadequate medical care.
4. **Proof of Exhaustion**:
    - **Petitioner**: Evidenced to have fully exhausted all administrative remedies related to each count, as outlined in the provided documents.
    - **Carlson**: The Carlson case also involved discussions on the exhaustion of remedies before seeking judicial intervention.

These similarities highlight how both cases involve serious Eighth Amendment violations due to denial of essential medical care, making the legal principles and potential remedies applicable in both instances.

vi. The Appellate Court stated: "We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments and allegations raised for the first time on appeal." (Appendix A, page 30).

What issues were not specifically and distinctly raised and argued in the opening brief? Additionally, what arguments and allegations were introduced for the first time on appeal?

This Court should request the Appellate Court to clarify these questions, as the Petitioner never submitted any new or extraneous information to either the Appellate Court or the U.S. District Court. The Petitioner believes that the remark suggesting otherwise appears to be a misunderstanding. Clarification from the Appellate Court will help ensure that the record is accurate and that any potential misinterpretations are addressed. This will also aid in maintaining the integrity of the judicial process and ensuring that the Petitioner's case is fairly evaluated based on the evidence and information that was actually submitted.

vii. The Petitioner thoroughly addressed his opening brief, which included three counts and their attachments, submitted to the Ninth Circuit Court of Appeals. Refer to Appendix D, pages 63-138, where the Petitioner fully submitted his Appeal (Informal Opening Brief) to the Ninth Circuit.

Therefore, the District Court's dismissal of Counts Two and Three under the Bivens remedy was unreasonable, and the Appellate Court's affirmation was incorrect.

1. **District Court's Misinterpretation**: The U.S. District Court stated that the Plaintiff's Eighth Amendment threat-to-safety claim does not expand the Bivens remedy (Appendix

B Doc.60, page 12/60). This assertion incorrectly assumes that recognizing a Bivens remedy would invalidate prisoners' constitutional rights, contrary to the Supreme Court's holding in Estelle v. Gamble, which allows prisoners to state a cause of action for deliberate indifference to serious medical needs.

2. **Intentional Disregard by Rodriguez**: Despite a mandatory medical order, Rodriguez knowingly disregarded the substantial risk of serious harm to the Petitioner, resulting in multiple falls and injuries, reinforcing the claim of deliberate indifference akin to that in Carlson's case.
3. Given these points, the dismissal of Counts Two and Three should be reconsidered to ensure a fair evaluation of the Petitioner's claims based on the substantial evidence and legal precedents presented.

Please note: Neither the Defendants nor their defense counsel have ever denied the constitutional violations alleged in the three counts, which include violating the Petitioner's medical order, opening his legal mail, and feeding him outdated food. However, the defense lawyers intend to defend the case by arguing exhaustion and the Bivens remedy.

Note: Per the Court's order, the attachments from this section (A. Undisputed Facts) were moved to Appendix D, resulting in a reduction of two pages from the original numbering starting at page 7.

This Court should request the Appellate Court to clarify these questions, as the Petitioner never submitted any new or extraneous information to either the Appellate Court or the U.S. District Court. This remark appears to be a misunderstanding.

v. The Petitioner fully addressed his opening brief, including three counts and their attachments submitted to the Ninth Circuit Court of Appeals. See (APPENDIX D, pg. 67-142, where the Petitioner submitted his Appeal (Informal Opening Brief) to the Ninth Circuit.)

Please note: Neither the Defendants nor their defense counsel have ever denied the constitutional violations alleged in the three counts, which include violating the Petitioner's medical order, opening his legal mail, and feeding him outdated food. However, the defense lawyers want to defend the case by the exhaustion avenue and Bivens Remedy; nonetheless, the Petitioner has clearly proven that he fully exhausted each Count, as mentioned in the "**A. Undisputed Facts**" section.

XI. CONCLUSION

For all these reasons, the Petitioner respectfully requests that the Supreme Court grant this petition and reverse the judgments of the lower courts.

Dated: July 8, 2024

Respectfully submitted,

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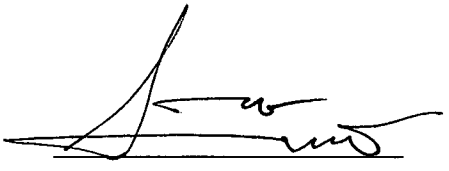
CERTIFICATE OF COMPLIANCE

As required by Supreme Court Rule 33.1(h), I, Issa Doreh, certify the petition for a writ of certiorari contains 2,395 words, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1(d).

I declare under penalty of perjury the foregoing is true and correct.

This 8th day of July, 2024.



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