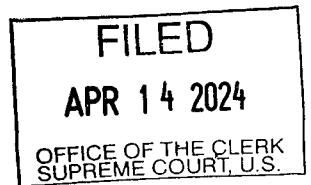


No. **24 - 5228**



IN THE
SUPREME COURT OF THE UNITED STATES

THOMAS WATERS 13xxx — PETITIONER
(Your Name)

vs.

Federal Bureau of Prisons et al RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

3rd Cir Court of Appeals

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

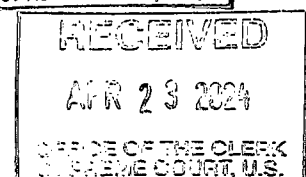
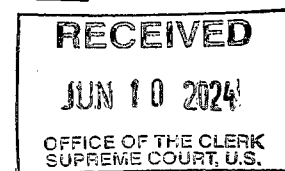
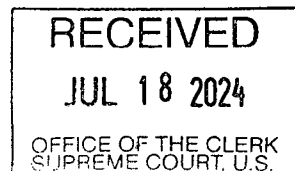
PETITION FOR WRIT OF CERTIORARI

THOMAS WATERS 13xxx
(Your Name)

1371 N. Washington Ave
(Address)

Scranton, PA 18509
(City, State, Zip Code)

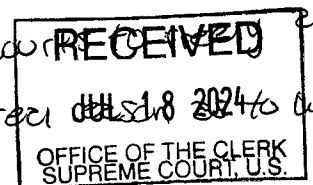
NONE
(Phone Number)



QUESTION(S) PRESENTED

U.S. District court abused it's discretion under Fed rule civil Pro 15(c) and Supreme court precedent *Foman vs Davis* 371 U.S. 178 by refusing to allow me to amend my complaint. This is also an equal protection violation a court cannot overrule one of it's prior decisions unless it does so **EN BANC** *Foullk vs Carrier* 267 F.3d 687. This abuse of discretion is also in conflict with 3rd cir precedent *Alston vs Parker* 363 F.3d 229 holding amendment of Pleadings are governed by rule 15 Fed rule civil Pro. In Particular rule 15(c) provides that a party can amend a complaint to add or substitute Parties... my doc #7 which is the denial in question, I added defendant's and 1st and 8th amendment issues. If the amended complaint is deemed untiled, moot, or denied the amended defendants L.T. R. Keen and John Schwartz along with my 8th amendment claims will be lost? The defendants are in default and didn't request to have the court deny this amended doc #7. The District court did so **SUA SPONTE** which is also an error. And in conflict with 3rd cir precedent *Grayson vs Mayview* 293 F.3d 103 ★.....

This abuse of discretion lastly is in conflict with other Federal court rulings that addressed rule 15(c) Fed rule civil Pro issues. *Ramirez vs San Bernardino* 806 F.3d 1002 9th cir, *Calhoun vs Collier* 78 4th 846 5th cir, *Dussouy vs Gulf Coast Inv. Corp* 660 F.2d 594 5th cir, *Henderson vs U.S. Fidelity* 620 F.2d 530 5th cir, *Williams vs Citigroup Inc* 659 F.3d 208 2nd cir. All ruling that rule 15(c) Fed rule civil Pro, providing courts allow leave to amend complaints. The District court also didn't give a real reason why doc #7 was being denied? This ~~is~~ is thus a equal protection violation...



LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page. And appendix E does not
- ☐ 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:

RELATED CASES

Alston -vs- Parker 363 F.3d 229, 3rd cir / Pornez -vs- J.S.D. Mgmt 336 F.Supp2d 505, 3rd cir
Grayson -vs- Mayview 293 F.3d 103, 3rd cir / All 3rd cir Precedent cases dealing with
amendment of complaints under Fed rule civil pro 15(a), which gives the District court
the power to grant leave to amend freely. "see" Foman -vs- Davis 371 U.S. 178 which
also ruled that outright refusal to grant the leave to amend is a abuse of
discretion. such leave must be granted in the absence of undue delay, bad faith,
dilatatory motive, or unfair prejudice. "see" Grayson 293 F.3d 103, 3rd cir
The 2nd, 5th, and 9th cir's all ruled in the same way "see" Williams -vs- Citigroup INC 659
F.3d 208, 2nd cir, Henderson -vs- Fidelity 620 F.3d 530, 5th cir, Ramirez -vs- San Bernardino
806 F.3d 1002, 9th cir... Thus, I'm facing discriminatory treatment from the 3rd cir
and District court as well as equal protection violations under the 14th amendment. Because
the court overruled these 3rd cir prior decisions without doing so en banc...

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APPENDIX F • U.S. District court Doc # 19

Appendix B - WAS NOT returned and is NOT NEEDED ... Appendix F is added to replace B?

5-20-24

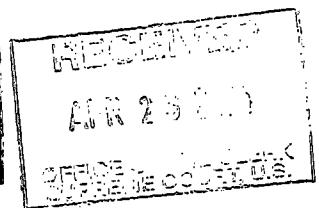
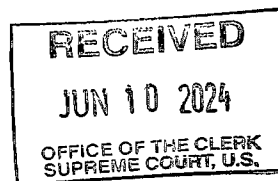
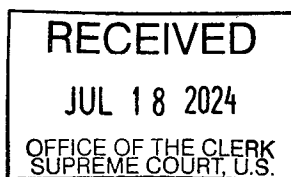


TABLE OF AUTHORITIES CITED

CASES

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2,

Ramirez -vs- San Bernardino 806 F.3d 1007. 9th cir

2,

Calhoun -vs- Collier 78 4th 846. 5th cir

2,

Dussouy -vs- Gulf Coast Inv. corp 660 F.2d 594. 5th cir

2, 3.

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Williams -vs- Citigroup INC 659 F.3d 208. 2nd cir / Grayson -vs- Mayview 293 F.3d 103. 3rd cir

STATUTES AND RULES

Federal Rules civil pro 15C2)

28 U.S.C. § 1291 - "Jurisdiction"

Religious Freedom Restoration Act 42 U.S.C. § 2000 bb-1

Religious Land Use and Institutionalized Persons Act 42 U.S.C. § 2000 cc-1

28 U.S.C. § 1915

1st and 8th amendment violations, at risk to be lost without amended complaint being granted... Along with all amendment defendants from Doc#7 Equal Protection issue...

OTHER

Trest -vs- Cain 522 U.S. 87 PAGE #3

McZadden -vs- Lehman 968 F.3d 1001 - constitutional and statutory provisions Pg#1

Denton -vs- Hernandez 504 U.S. 25 - constitutional and statutory provisions Pg#1

Equal Protection violation, 1st and 8th amendment issues

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 C 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 United States district court appears at Appendix A/F to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished. "Docket #7" motion to amend denied

☐ For cases from state courts:

The opinion of the highest state court to review the merits appears at Appendix N/A to the petition and is

☐ reported at N/A; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the N/A court appears at Appendix _____ to the petition and is

☐ reported at N/A; 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 2-8-24 and 3-8-24.

☐ 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: 3-8-24, and a copy of the order denying rehearing appears at Appendix D.

☐ 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 N/A.
A copy of that decision appears at Appendix N/A.

☐ A timely petition for rehearing was thereafter denied on the following date: N/A, and a copy of the order denying rehearing appears at Appendix N/A.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

- CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Due process violation, and a outright abuse of discretion in the court's refusal to allow me to amend my complaint. In violation of Fed rule of civil pro 15 (a) and Foman -vs- Davis 371 U.S. 178. "see" Appendix A doc #'s 7, 17, and 19... The U.S. District court on 7-12-23 doc #7 motion to amend complaint was filed. 8-15-23 doc #17 court order doc #19 court order denying doc #18 motion to reconsider denying my doc #7 motion to amend... Appendix C and D. I made it clear to the 3rd cir that my 1st and 8th amendment issues was listed within doc #7 and defendant's that was named for the first time. If the court denied this motion to amend the 1st and 8th amendment issues as well as the amended defendant's would be lost? The 3rd cir in it's order "see" Appendix C acted as if it didn't understand why I was filing the appeal? And it errored in ruling that it lacked appellate Jurisdiction under 28 U.S.C. §1291. The 3rd cir also should have considered dismissing my complaint under 28 U.S.C. §1915. In light of McGee -vs- Lehman 968 F.supp 1001 3rd cir. Because such determinations are best left up to the trial courts who are in the best position to determine summary dismissal, Also "see" Denton -vs- Hernandez 504 U.S. 25... Thus I'm facing an equal

Protection violation and discriminatory treatment under the 14th amendment...
This discriminatory is evident because I'm black and acting Pro se. my Appendix E
the 3rd cir docket sheet #23-2918, doc #'s 13, 14, 15, and 17. All Pro se filings supporting
my Fed rule civil pro 15(c) issues. In doc #16 the 3rd cir acted as if it didn't understand
why I was filing the appeal? "see" Appendix C. This ruling is alarming because it is
a rogue unpublished ruling that's in conflict with 3rd cir and supreme court
precedent as well as Fed rule civil pro 15(c). Also see *Foman vs- Davis* 371 U.S. 178.
The 3rd cir clearly had appellate Jurisdiction under 28 U.S.C. §1291. Because the U.S.
District court's ruling in not allowing me to amend my complaint for the first time,
was a judgment under Fed rule civil pro 54, that I attempted to appeal within the U.S.
District court, "see" Appendix A doc #17 ~~or~~ denying doc #7, doc #18 motion to reconsider
doc #19 order denying in part doc #18 and doc #22 brief in support for motion to recon-
sider. After the motion to reconsider was denied doc #19, the 3rd cir had appellate Juris-
diction under 28 U.S.C. §1291. Not only didn't the 3rd cir address my *Foman* 371 U.S. 178
error. The 3rd cir attempted to deem my complaint failed to state a claim or make
a frivolousness determination? which is a discretionary determination best
left to the trial court who is in the best position to determine when a indigent
complaint is appropriate for summary dismissal. "see" *Mcadden vs- Lehman* 968 F. Supp
1001 3rd cir and *Denton vs- Hernandez* 504 U.S. 25. The defendant's are in default and
never responded to my motion for summary judgment, doc #27, motion for temporary re-
straining order doc #26, or motion for default doc #24 Appendix A. My complaint also com-
plies with Fed rule civil pro 8 and wasn't even a issue before the 3rd to consider?

STATEMENT OF THE CASE

U.S. District Court at Appendix A doc #'s 17 and 19 refused to allow me to amend my complaint. At doc #'s 7 and 8 while doc #8 was deemed filed "see" doc #17. my doc #7 was deemed moot and or denied even after my motion to reconsider was denied. "see" doc #18 reconsideration motion. doc #19 denying in part doc #18 with respects to motion to amend doc #7... The U.S. District court's outright refusal to grant me leave to amend without any justifying reason appearing for the denial is not an exercise of discretion but is merely an abuse of discretion and is inconsistent with the spirit of the federal rules. "see" Foman -vs- Davis 371 U.S. 178 and Fed rule civil Pro 15(c), providing the leave to amend pleadings shall be freely given when justice so requires. "see" Foman 371 U.S. 178... The 3rd cir at appendix C acted as if it didn't understand why I was filing the appeal? A review of the 3rd cir docket sheet however will clearly show that justice so required my motion to amend doc #7 which I sent a copy to the 3rd cir, along with the U.S. District court's outright refusal to allow me to amend, which was clearly a final order under 28 U.S.C. § 1291 which gave the 3rd cir appellate jurisdiction. My new dependants along with my 1st and 8th amendment claims specifically would be lost and deemed not apart of the complaint with respects to dependant's L.T. Keen, and John Scharfz under the 8th amendment. The U.S. District court gave no real

reason as to why the amended complaint was being denied? My 1st amendment claims under the religious Freedom restoration act 42 U.S.C. § 2000bb-1 and the religious land use and institutionalized persons act 42 U.S.C. § 2000cc-1 will also be lost without any justifying reason appearing for the denial? Thus, this is an abuse of discretion on the part of the District court "see" doc #'s 17 and 18 which violates Supreme court precedent "see" *Foman* 371 U.S. 178 and Fed rules of civil pro 15(c2). The defendants are also in default "see" doc #24 Appendix A and never responded to my motion for summary judgment "see" doc #27 nor my request for Temporary restraining order "see" doc #26. The District court's refusal to allow me to amend also violates 3rd cir precedent, "see" *Alston vs. Parker* 363 F.3d 229 and *Kornea vs. J.S.D. Mgmt* 336 F. Supp 3d 505. This ruling is lastly in conflict with other federal court rulings under Fed rule civil pro 15(c2) "see" *Perez vs. San Bernardino* 806 F.3d 1002 9th cir. District court erred in refusing to allow defendant to amend his second complaint under rule 15(c2) Fed rule civil pro 15(c2) "see" *Cathoun vs. Collier* 784 F.3d 846 5th cir. Rule 15(c2) declares that leave to amend shall be freely given... *Dussouy vs. Gulf Coast Inv. Corp* 660 F.3d 594 5th cir. Rule 15(c2) requires the trial judge to grant leave to amend whether or not the movant shows prejudice. Rule 15(c2) also allows as a matter of right one amendment before any responsive pleading has been filed. Subsequent amendments are permitted only with leave of the trial judge. And appellate review of the decision to grant or deny leave is generally described as limited to determining whether the trial court abused its discretion also "see" *Henderson vs. U.S. Fidelity* 620 F.3d 530 5th cir... "see" *Williams vs. Citigroup Inc*

"Statement OF CASE"

30F4

659 F.3d 208 2nd cir under rule 15(c) Fed rule civil Pro courts should freely give leave to amend an complaint. This permissive standard is consistence with the courts strong preference for resolving disputes on the merits... And an appellate courts reviews a District court's denial of leave to amend for abuse of discretion. The 2nd cir has described the contention that the District court abused it's discretion in not permitting an amendment that was never requested as frivolous. "see" William 659 F.3d 208 2nd cir... Such is the case at hand? As I've stated the defendants are in default "see" Appendix-A doc #24 and never request that the court should ~~deny~~ deny the amended complaint "doc #7" the District court did so SUA SPONTE, which was also an error because this was not a jurisdictional issue. "see" Trest vs. Cain 522 U.S. 87. Thus, the District court abused it's discretion under Fomen 371 U.S. 178 with it outright refusal to allow me amend under rule 15(c) Fed rule civil Pro. And the 3rd cir just acted as if it didn't understand what I was appealing? Thus, the 3rd cir was in error by not fully reading my appeal and motion for rehearing. "see" Appendix's cand). And not reviewing the District court's refusal to allow me to amend for an abuse of discretion. My appendix E, 3rd cir #23-29018 docket sheet will clearly show that I made a clear showing as to what and why I was appealing. "see" doc #'s 13 Brief in support of appeal, doc #14 Argument in support of appeal, doc #15 response to 3rd cir's letter advising me of possible dismissal due to Jurisdictional defect. And doc #17

"Statement of Case"

4 OF 4
→

Petition for rehearing... After all of that the 3rd cir still seemed to not understand why I was appealing? Thus, being that I'm black, in jail, and acting pro se. I have reason to feel like discriminatory treatment was being used towards me. And my equal protection rights under the 14th amendment was being violated. I used supreme court and 3rd cir precedent in all my filing to the court. And the 3rd cir acted with prejudice towards me and refused to hear my issue on appeal under 28 U.S.C. § 1291. Even after I pointed to Fed rule civil pro 54 as controlling in my case, because I had exhausted all attempts within the district court after my motion to reconsider was denied, I had nothing left to do but appeal? And the 3rd cir refused to hear my rule 15(c) Fed rule civil pro claims. Now, I'm left with nothing else to do but turn to the supreme court to have them fix this prejudice error that is supported by supreme court rule 15(c) Fed rule civil pro precedent Fomen 371 U.S. 178. The 3rd cir precedent that addressed this issue fully in Grayson -vs- Mayfield 293 F.3d 103. Is why I claim equal protection, prejudice, and discriminatory treatment, as well as an access to court violation under the 1st amendment due to the 3rd cir's refusal to hear my appeal. These 1st, 13th, and 14th amendment issues can only be fixed by the most high court...

RESPECTFULLY
THOMAS WATERS 13xxx
~~Thomas Waters~~
4-10-24

REASONS FOR GRANTING THE PETITION

Not only is this ruling a rogue one that is in conflict with Fed rule civil Pro 8 and 15(c). It's also in conflict with supreme court and 3rd cir precedent cases like Foman -vs- Davis 371 U.S. 178, Denton -vs- Hernandez 504 U.S. 25, Metad -vs- Lehman 968 F. Supp 1001 3rd cir, ... My case's ruling is also in conflict with a number of other federal court's ruling dealing with Fed rule civil Pro 15(c) on the issue of allowing people to freely amend complaints "see" Ramirez -vs- San Bernardino 806 F.3d 1007 9th cir, Henderson -vs- Fidelity 620 F.2d 530 5th cir, and Grayson -vs- Mayview state 293 F.3d 103 3rd cir. All ruling Fed rule civil Pro 15(c) gives plaintiff leave to amend complaint freely so long as such leave is for undue delay, bad faith, or unfair prejudice, or futility of amendment... The judge gave no reason as to why the amended complaint wasn't being allowed? Thus, as the 3rd cir put it in Grayson 293 F.3d 103 an amendment must be permitted in a context where none of the listed reasons are at issue unless it would be inequitable...

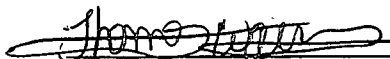
I'm also facing Equal Protection, access to court, and discrimination issues in violation of the 1st, 13th, and 14th amendments. "see" Wolf -vs- McDonnell 418 U.S. 539. There is no legitimate reason as to why these rule 15(c) Fed rule civil Pro laws don't apply to me "Foman" 371 U.S. 178? "Other than the fact that I'm black, in jail, and acting pro se? And I have no help, which is alarming for all pro se people, that the 3rd cir will act as if it didn't know why I'm appealing when all my documents make this issue clear! This petition should be granted to protect all pro se people's rights to appeal under 28 U.S.C. § 1291 and right to amend under Foman 371 U.S. 178...

This petition should also be granted, to address SUA SPONTE dismissals when a defendant do not make a challenge or request to have the court dismiss such motions like my doc #'s 7, 18, and 22. "see" Appendix A District court's docket sheet. The Fomen 371 U.S. 178 court made it clear that to grant or deny a opportunity to amend pursuant rule 15(c) Fed rule civil pro is within the discretion of the U.S. District court. But an outright "refusal" to grant the leave to amend without any justifying reason appearing for the denial? This is NOT exercise of discretion and is merely abuse of discretion and is inconsistent with the spirit of the federal rules... The 3rd cir also errored and violated my equal protection rights under the 14th amendment, by not fully reading and addressing my appeal issue

CONCLUSION

This case is also in conflict with 8th cir cases like FOUK vs. Charrier 262 F.3d 687. A court cannot over rule one of it's prior decisions unless it does so EN BANC? Never took place in my case... The petition for a writ of certiorari should be granted.

Respectfully submitted,

 13xxx

Date: 4-10-24