

No. 1234567890

In the Supreme Court of the United States

Sedric Q. Sutton

Petitioner,

vs.

State of Mississippi

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the
Fifth Circuit

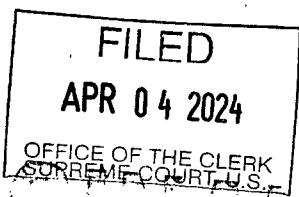
PETITION FOR A WRIT OF CERTIORARI

Sedric Q. Sutton

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QUESTION PRESENTED

Whether the United States Court of Appeals for the Fifth Circuit erred in granting the Motion for Summary Judgment denying Damages for an Illegal Search and Seizure and Entitlement to be Compensated for being Wrongfully Convicted when the lower court decided, taken as a whole, that Sedric Sutton failed to create a genuine issue of material fact by a preponderance of the evidence that he did not commit felonies for which he was sentenced. When Law Enforcement Officers violated Sedric Sutton Fourth Amendment Right of the United States Constitution by executing an Invalid Search Warrant which failed to particularly describe the property to be seized, which led Sutton to be found in possession of a misdemeanor amount of a scheduled III controlled substance posed as a Felony possession with intent?

Was there a Fourth Amendment Constitutional violation against Sutton?

Whether the illegally obtained evidence of a misdemeanor possession used to convict Sutton sufficient to sustain a felony possession with the intent conviction? Misdemeanor Possession v. Felony Possession with the Intent?

Whether Sutton suffered cruel and unusual punishment for being denied access to receive medical treatment for himself, while also failing to ensure he received adequate and necessary medical treatment before and after being placed on trial and being convicted and sentenced to a term of 15 years suffering and seeking medical treatment for on-going ailments.

LIST OF PARTIES

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PETITION FOR A WRIT OF CERTIORARI

The Petitioner, Sedric Sutton respectfully requests the issuance of a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit.

DECISION BELOW

The decision of the United States Court of Appeals for the Fifth Circuit. This opinion is not designated for publication. *See* 5th Cir. R. 47.5.

JURISDICTION

The Fifth Circuit entered judgement on January 5, 2024. This Court's jurisdiction is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Fourth Amendment

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The requirement that warrants shall particularly describe the things to be seized makes general searches under them impossible and prevents the seizure of one thing under a warrant describing another.

Fourteenth Amendment

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 the United States; nor shall any State deprive 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.

Eighth Amendment

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Sixth Amendment

To be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

STATEMENT OF THE CASE

Petitioner, Sedric Sutton, seeks compensation and damages for the violations of his Constitutional Rights, which led to incarceration when Law Enforcement

Officers Charlton Smith and Dwight Donham of the Washington County Sheriff's Department led a team of officers into the execution of an invalid search warrant, that failed to describe with particularity the place to be searched and the items to be seized, which led to incarceration while in violation of Sutton's Fourth Amendment Right of the United States Constitution.

On July 15, 2014, a confidential informant told law-enforcement officers, at the Washington County Sheriff's Department, that "stolen items" were located at 331 Muscadine Street in Greenville, Mississippi. Based on the information provided by the Informant, Officers Dwight Donham and Charlton Smith prepared an Affidavit for Search Warrant and presented it to Washington County Justice Court Judge Laverne Holmes-Carter. Judge Holmes-Carter issued a search warrant for "stolen items" in the Muscadine house at 331 Muscadine Street in Greenville, Mississippi. That same day, Officer Smith and Donham executed the warrant on the house at 331 Muscadine St. Upon entering the house with guns drawn, the officers detained Sutton and told him they had a warrant. Sutton asked, "A warrant for what?" An officer stated, "it must be something stolen in here!" Sutton asked, "what are y'all looking for?" The officers advised Sutton to just sit down and shut up. The officers began to search the house and began to confiscate property from the petitioner's home. As a result of the search of Sutton and the house, an officer found sixty (60) prescription pain medication in Sutton's front pocket. The officer asked, "Who's pills are these?" Sutton replied that he received them from a friend. After an almost 3-hour search and seizure, an officer yelled, "He's got a gun!"

Sutton was arrested and charged with Possession of a Firearm by a Convicted Felon and Possession of Controlled Substance under Mississippi Code Section 41-29-139(c)(3)(A) a misdemeanor, given that he had less than 100 pills.

A Washington County grand jury indicted Sutton as habitual offender for Possession of a Controlled Substance with Intent under Mississippi Code Section 41-29-139(a)(1) and for Possession of a Firearm by a Convicted Felon.

During pretrial, Sutton moved to suppress the evidence from the execution of the warrant. Sutton attacked the warrant on two separate grounds: (1) that the underlying facts and circumstances on which the warrant was based were unreliable and (2) that the warrant failed sufficiently to describe the property to be seized. The trial court held a hearing on Sutton's motion, in which the trial court denied. Sutton was tried before a jury on May 26, 2016 and found Sutton not guilty of the first count, Possession of a Firearm by a Convicted Felon but was found guilty on the second count, Possession of a Scheduled III Controlled Substance with Intent.

On June 1, 2016, Sutton was sentenced to a term of fifteen years in the custody of the Mississippi Department of Correction pursuant to Section 41-29-139(b)(4)(C) and 99-19-81. Sutton appealed. The Mississippi Supreme Court found that the facts and circumstances undergirding the warrant were insufficient to support a determination of probable cause as to "stolen items," the Court agreed with Sutton that the Search Warrant failed to adequately describe the property to be searched for and the property to be seized. Essentially, the Mississippi Supreme

Court found that Sutton's constitutional rights under both the Mississippi Constitution and the United States Constitution were infringed, due to execution of the invalid search which fail to sufficiently describe the property to be seized.

March 15, 2018, The Mississippi Supreme Court reversed and remanded Sutton's conviction and sentence back to The Circuit Court of Washington County, Mississippi, whereas the Circuit Court of Washington County, Nolle Prosequi the case against Sutton April 10, 2018.

Sutton's initial complaint was filed in the Washington County Circuit Court around January 2019 after Sutton's April 2018 release from incarceration. It was filed by licensed attorney, Rhonda Cooper MSB NO. 6511, whom Sutton hired to file on his behalf, to claim his property back that was taken in July of 2014. Attorney Cooper filed on Sutton's behalf then advised Sutton to file the initial civil complaint pro bono, alleging that Sutton was Wrongfully Convicted which spring from an illegal search and seizure in violations of the Fourth Amendment Constitutional Right to be free from illegal search and seizure. The Illegal Search and Seizure led Sutton's to be incarceration for possessing a misdemeanor amount of a Scheduled III Controlled Substance, posed as a Felony Possession with the Intent Misdemeanor Possession v. Felony Possession with Intent.

Judge Richard A. Smith of Washington County Circuit Court denied, November 10, 2020, stating that Sutton failed to create a genuine issue of material facts by a preponderance of the evidence, that he did not commit a felony for which he was sentenced.

Sutton timely filed an appeal Pro Se, whereas the Pro Bono Licensed Attorney abandoned representing Sutton's case on appeal to the Mississippi Supreme Court whom reversed and remanded Sutton's conviction and sentence but who Affirmed the trial court's grant of summary judgment February 3,2022.

The Mississippi Supreme Court affirmed the trial court's judgment, holding that Sutton's conviction was reversed "based on legal insufficiency" and not on grounds "inconsistent with innocence." The Court additionally concluded that there was "no merit in Sutton's argument that he possessed the hydrocodone pills for ongoing medical ailments . . . did not commit a felony."

On July 26,2022, Sutton filed a lawsuit appeal in Federal District Court based on violations of his Fourth Amendment Rights and being Wrongfully Convicted. Sutton argues that the State's evidence was not just illegally obtained through the execution of an invalid search warrant and subjected to the exclusionary rule but, was also insufficient to find him (Sutton) "guilty of possession with the intent to sale or distribute the pills to another".

November 21, 2022, The Federal District Court in Oxford Mississippi initially set the case for trial, but later ruled that Sutton's claim was time barred and barred by the doctrine res judicata Sutton, timely appealed.

January 5, 2024, United States Court of Appeals for the Fifth Circuit ruled that Sutton failed to challenge the district court's holding that the claim was barred

by res judicata, and time barred, and that Sutton only reiterated the Constitutional and Wrongful Conviction Claim.

REASONS FOR GRANTING THE WRIT

The decision of the lower court was incorrect and misapplied legal principles regarding the statute of limitations and constitutional rights. The United States Supreme Court has repeatedly held that a cause of action accrues when the plaintiff knows or has reason to know of the injury that is the basis of the action. *Wallace v. Kato*, 549 U.S. 384 (2007); *Heck v. Humphrey*, 512 U.S. 477 (1994). *Stone* requires full and fair opportunity to litigate a Fourth Amendment claim “at trial *and on direct review.*” 428 U. S., at 494–495, n. 37 (emphasis added).

A. The Lower Court’s Decision is in Conflict with Supreme Court Precedent

The trial court ruled that Sutton failed to create a genuine issue of material fact by a preponderance of the evidence that he did not commit a felonies for which he was sentenced or that the acts or omissions for which he was sentenced did not constitute a felony, and that it failed to show that his judgement of conviction was reversed “on ground not inconsistent with innocence.” Miss. Code Ann. Section 11-44-3 (1) (b), and that his conviction was reversed based on the language used in a search warrant and the

exclusionary rule, which led Sutton to incarceration for possession with the intent to distribute after being in possession of a misdemeanor amount of a scheduled III controlled substance, which only came to light after Law Enforcement Officers violated the Petitioner's Constitutional Rights under the Fourth Amendment of the United States Constitution by executing an invalid search warrant which failed to describe, with particularity, the place to be searched and the items to be seized?

The lower court's ruling is contrary to the principles set forth in *Wallace v. Kato*, where the Court held that the statute of limitations for a § 1983 claim begins to run when the plaintiff knows or has reason to know of the injury which is the basis of the action. In the present case, Petitioner only became aware of the constitutional violations in 2018. Thus, the statute of limitations should have begun to run at that time, making the lawsuit timely. This case presents an important issue of federal law regarding the proper application of the statute of limitations in § 1983 actions. The correct determination of when a claim accrues is crucial to ensuring that individuals whose constitutional rights have been violated have a fair opportunity to seek redress. The lower court's erroneous decision undermines this principle and warrants correction by this Court.

Sutton's initial complaint was filed in the Washington County Circuit Court around January 2019, by a licensed attorney Rhonda Cooper, who filed on behalf of

Sedric Sutton, to claim his property back that was taken in July of 2014. Attorney Cooper filed pro bono on Sutton's behalf alleging that Sutton's Constitutional Rights had been violated, which led to an illegal incarceration in the State of Mississippi.

Judge Richard A. Smith ruled that Sutton failed to state a claim and failed to show a genuine issue of material fact by a preponderance of the evidence, that he did not commit a felony.

Sutton argues that the evidence used to convict him was not only illegally obtained through the execution of an invalid search warrant in violation of the 4th Amendment and subjected to the exclusionary rule at trial but was also insufficient to support the jury's guilty verdict of possession with intent.

First, the exclusionary rule prohibits introduction into evidence of tangible materials seized during an unlawful search. *Murray v. United States*, 487 U.S. 533 (1988). In *Wong Sun v. United States*, the United States Supreme Court, explained the application of the exclusionary rule:

We need not hold that all evidence is "fruit of the poisonous tree" simply because it would not have come to light but for the illegal actions of the police. Rather, the more apt question in such a case is whether, granting establishment of the primary illegality, the evidence to which instant objection is made has been come at by exploitation of that illegality or instead by means sufficiently distinguishable to be purged of the primary taint. *Wong Sun*, 371 U.S. at 487–88 (internal quotations and citations omitted).

The exclusionary rule, however, does not apply automatically, as even a search pursuant to an invalid search warrant may be found to be reasonable under the good-faith exception. *White v. State*, 842 So. 2d 565, 571 (Miss. 2003). In *White*, this Court, quoting the Fifth Circuit, explained the good-faith exception: The United States Supreme Court has stated that the exclusionary rule should not be applied to suppress evidence if the evidence was obtained by officers acting in objectively reasonable reliance on a subsequently invalidated search warrant. However, this good faith exception does not apply if: (1) in issuing the warrant the magistrate is misled by information in the affidavit that the affiant knows is false or would have known was false except for his reckless disregard of the truth; (2) the issuing magistrate wholly abandons his judicia.

The evidence was inadmissible against Sutton in trial. And as the Mississippi Supreme Court found that there was no substantial basis for the inclusion of the language related to drug activity, the Court found that there was no probable cause to issue a search warrant for any illegal drug activity. Again, “the information necessary to establish probable cause ‘must be information reasonably leading an officer to believe that, then and there, contraband or evidence material to a criminal investigation would be found.’” Petti, 666 So. 2d at 757 (quoting *Rooks v. State*, 529 So. 2d 546, 554–55 (Miss. 1988)). The warrant listed the drug-related items to be seized, yet the record—pretrial, at trial and on appeal—is devoid of any allegation that either the issuing judge or the officers had reason to believe that the Muscadine house contained drugs. The CI related only activity about stolen

property. Also, at the hearing on the motion to suppress, Investigator Donham did not claim that law-enforcement officers had sought the warrant due to drug-related activity. Because the warrant insufficiently describes the stolen goods to be seized and there was no probable cause for any drug-related language to be included in it, the warrant was invalid. In its conclusion, the Mississippi Supreme Court ruled that dissent would render judgement in Sutton's favor, we do "not presume to speculate as to the substance of the prosecution's case against" Sutton. *Woods*, 866 So. 2d at 428 (dismissing indictment without prejudice). Had the trial court properly suppressed the evidence in this case, the State may have dismissed the case against Sutton, or it may have offered other evidence that it chose not to use against Sutton considering the evidentiary ruling.

Sutton argues that he was denied due process in trial proceedings when the trial court failed to allow Sutton to seek medical treatment for himself and failed to ensure he received the needed and necessary medical treatment for ongoing medical ailments before trial and while incarcerated. Additionally, Sutton argues that the trial court failed to allow Sutton the opportunity to prepare and present his defense at trial when Sutton's medical records were subpoenaed only a few days before trial began; whereas Sutton was distorted at trial in giving his testimony in his defense, even after the trial court became aware of his lengthy medical history which was known to persist at the time of trial, which led through his incarceration which was his reason for having the pain pills, which was because he suffered with ongoing

medical problems having the pain pills in his possession and for his own personal use.

Sutton argues that the evidence used to convict him was not only illegally obtained and subject to the exclusionary rule but was also insufficient to support a conviction for possession with intent to distribute, Sutton argues as in *Thomas v Mississippi*, 591 So. 2d 837 (1991). Sutton admitted he possessed the prescription pain pills, but only for his own personal use as in quoting *Thomas* as to the intent to distribute conviction, here again, we have a clear case of possession, but only surmise as to an intent to distribute. *Stringfield v. State*, 588 So. 2d 438 (Miss. 1991). The evidence only points to a mere suspicion of intent, which is insufficient to support this conviction. Thomas admittedly possessed a small quantity of cocaine in Mickel's and Williams' apartment, where additional cocaine was seized along with contraband identified with distribution of cocaine and crack, but this only implies possession of cocaine for personal use. See *Stringer v. State*, 557 So. 2d 796, 797-98 (Miss. 1990); *Boches v. State*, 506 So. 2d 254, 260 (Miss. 1987); *Bryant v. State*, 427 So. 2d 131, 132 (Miss. 1983); *Hollingsworth v. State*, 392 So. 2d 515, 518 (Miss. 1981); *Applegate v. State*, 301 So. 2d 853 (Miss. 1974).

Sutton argues that the search and seizure was very unreasonable, whereas the Officers claim that they came in search of stolen property and that Sed was in possession of it, stolen property that was never mentioned or stated in the records. Quoting as in, *Ramirez v. Butte-Silver Bow County*, 298 F.3d 1022 (9th Cir. 2002), the court addressed The Ramirez's sued the officers under Bivens v. Six Unknown

Named Agents of Federal Bureau of Narcotics, 403 U.S. 388, 91 S.Ct. 1999, 29 L.Ed.2d 619 (1971), and 42 U.S.C. § 1983, for violation of their Fourth Amendment rights where it was determined that to satisfy the Fourth Amendment, a search warrant must describe with particularity the place to be searched and the items to be seized. U.S. Const. amend. IV; *United States v. Sayakhom*, 186 F.3d 928, 934 (9th Cir.1999). The particularity requirement protects the individual from a "general, exploratory rummaging in [his] belongings." *United States v. Lacy*, 119 F.3d 742, 746 n. 7 (9th Cir.1997) (quoting *Coolidge v. New Hampshire*, 403 U.S. 443, 467, 91 S.Ct. 2022, 29 L.Ed.2d 564 (1971)). It does so both by "limit[ing] the officer's discretion" and by "inform[ing] the person subject to the search what items the officers executing the warrant can seize." *United States v. McGrew*, 122 F.3d 847, 850 (9th Cir.1997) (emphasis removed).

In the present case, the Mississippi Supreme Court found that the evidence seized pursuant to the invalid warrant cannot "be purged of the primary taint" of the illegal search. As such, the exclusionary rule applies. Here too, the warrant was so facially deficient that the executing officers could not have presumed it to be valid. The executing officers did not have any way to distinguish stolen items from property that was not stolen. A reasonable officer who sees a warrant authorizing the seizure of "stolen items" would know that it failed to provide any guidelines for what property was to be seized. Officers Smith and Donham, who executed a search warrant, facially defective by failing to particularize the things to seized. Officers Smith and Donham could not reasonably presume that the search and seizure was

valid from the invalid search warrant, seeking unknown stolen property. Then confiscated and damaged Sutton's and his family property should not be entitled to qualified immunity.

Sutton also argues, as in *Estelle v. Gamble*, 429 U.S. 97 (1976) where it addresses a critical issue surrounding the constitutional rights of detainees and the responsibilities of local governments when detainees seek medical treatment under 42 U.S.C. § 1983.

The Fourteenth plaintiff claimed that his rights under the Eighth and Fourteenth Amendments were violated due to inhumane conditions and lack of needed and the necessary medical care while he was detained. The case serves as a stark reminder of the fundamental constitutional protections afforded to individuals under the Eighth and Fourteenth Amendments. Specifically, this case highlights the responsibilities of local governments to ensure that detainees are not subjected to cruel and unusual punishment and that they receive adequate medical care.

Sedric Sutton's medical claim would also fall in the line of deliberate indifference under 42 U.S.C. § 1983, asserting violations of his Eighth Amendment rights due to inadequate medical care before and during trial and while in prison.

As a convicted prisoner, Sutton is protected under the Eighth Amendment, which mandates that prison officials provide adequate medical care and not be deliberately indifferent to serious medical needs (as established in *Estelle v.*

Gamble, 429 U.S. 97 (1976)). Sedric Sutton, while serving his sentence, claimed he did not receive adequate medical care for his serious and on-going medical conditions. Sutton's case would involve examining facts of Sutton's health that the trial court and prison officials knew of and showed total disregard of an excessive risk to his health, constituting deliberate indifference, whereas Sutton advised the trial court of his ongoing medical history and that he would like to have the needed and necessary medical care and treatment to remove a "cyst" that was on top of his head and below his chin, before being placed on trial, because the "cyst" caused headaches, blurred vision, motion sickness, and discomfort. Sutton advised the trial court that he had been denied medical treatment before while in prison in the past and would like to have had the proper medical treatment before being placed on trial or going to prison. The court advised Sutton that he could receive medical care while in prison, which the necessary medical care was denied throughout his incarceration. The trial court also stopped the medical care and treatment Sutton was receiving before trial, by admitting his medications that was prescribed to him into evidence at the time of trial and failed to ensure that Sutton received the needed and necessary continued medical care and treatment while incarcerated.

In the case of *Estelle Gamble*, the Court focused on whether the conditions of confinement and the denial of medical care constituted deliberate indifference, violating the Eighth Amendment. For pretrial detainees, conditions that amount to punishment or lack a legitimate governmental objective violate the Fourteenth Amendment's Due Process Clause. The standard for Sutton's claim under the

Eighth Amendment would be deliberate indifference to serious medical needs. Deliberate indifference involves knowing of and disregarding an excessive risk to inmate health and safety. Whereas Sutton argues that he was denied the needed and necessary medical care and treatment before going to trial that would have prevented him from suffering with known ailments until he was ultimately released after his case was reversed on appeal.

The Court found that *Gamble* presented sufficient evidence to support his claims of deliberate indifference by the county officials. The case highlighted the importance of adequate medical care and humane conditions for detainees, reinforcing constitutional protections. If Sutton's case were to proceed similarly, the court would assess whether state and prison officials were deliberately indifferent to his medical needs. A finding in Sutton's favor would reaffirm the requirement for state and prison officials to provide adequate medical care and address serious medical conditions appropriately.

Both *Gamble* and Sedric Sutton's situation underscore the critical importance of constitutional protections against cruel and unusual punishment and the requirement for adequate medical care in detention settings. While the *Gamble* case focused on pretrial detention under both the Eighth and Fourteenth Amendments, Sutton's claim would be evaluated solely under both the Eighth and Fourteenth Amendment due to his status as a pretrial detainee and continue as a convicted prisoner. In both scenarios, the central issue is the deliberate indifference of officials to the health and safety of individuals in their custody, highlighting the

ongoing need to safeguard the rights and well-being of detainees and prisoners alike, whereas Sutton made the trial court and prisoner officials aware of his obvious need for medical care and necessary treatment, but to no avail.

- 1. This claim should not be barred by res judicata because it was not a correct final judgement on the merits of precedent cases nor was the Plaintiff a chance for redress for all the continuing wrongs.**

The discovery rule is a legal principle that delays the commencement of the statute of limitations period until the plaintiff discovers, or with reasonable diligence should have discovered, the facts giving rise to the claim. This rule is particularly relevant in cases involving constitutional violations where the harm or its cause is not immediately known to the victim.

During the initial search, law enforcement was in search of stolen property they only discovered on Sutton's person sixty (60) dosage units of Schedule III controlled substance. Mississippi Code Section 41-29-139(c)(A) provided that "less than fifty (50) grams or less than one hundred (100) dosage units is a misdemeanor. Because the dosage units found on Sutton's person was less than one hundred (100) dosage units, the charge was a misdemeanor. Only by claiming that Sutton possessed the pills with the Intent to Sell or Distribute made it a felony, here also one officer claimed that he found a gun in a wall panel, while another officer testified that he saw a gun in plain view. This inconsistency in their testimonies raises questions

about the credibility of their statements. It appears they were attempting to convict Sutton of possession of a firearm by a convicted felon, primarily based on his known status as a convicted felon, rather than on consistent and reliable evidence.

2. This claim should not be barred by time limitations because it was initially filed January 2019 within the three-year statute of limitations, after Sutton's April 2018 release from incarceration is when Sutton realized his Constitutional Rights had been violated.

As the Supreme Court explained more than 50 years ago in *Lawlor v. National Screen Service Corp.*, 349 U.S. 322 (1955), res judicata does not bar a suit, even if it involves the same course of wrongful conduct as alleged earlier, so long as the suit alleges new facts or a worsening of the earlier conditions. As this Court has held, unripe claims cannot later serve as a basis for res judicata. *Rawe v. Liberty Mut. Fire Ins. Co.*, 462 F.3d 521, 529–30 (6th Cir. 2006). Sutton argues that this case is a continuous cause of wrong caused by the Officers act of executing an invalid search warrant, seeking stolen property. They began rummaging and confiscating property that belonged to Sutton and his family without any justification or reason to believe that the property that they confiscated was stolen or not. After getting released from prison, 4 years Sutton went to claim his property back, but the property he received was either returned damaged or not returned at all.

In this *Wallace v. Kato*, the Supreme Court noted that the statute of limitations for a §1983 claim begins to run when the plaintiff has a "complete and present

cause of action." However, the Court also recognized that the accrual of a claim may be delayed if the plaintiff is unaware of the facts underlying the violation. *Wallace v. Kato*, 549 U.S. 384 (2007).

In *Heck v. Humphrey*, the Supreme Court held that a §1983 claim for damages attributable to an unconstitutional conviction or sentence does not accrue until the conviction or sentence has been invalidated. This case supports the argument that the statute of limitations does not begin to run until the plaintiff has a factual basis to assert a constitutional violation. *Heck v. Humphrey*, 512 U.S. 477 (1994).

In *McDonough v. Smith*, the Supreme Court held that the statute of limitations for fabricated evidence claim under §1983 begins to run when the criminal proceedings against the plaintiff are terminated in his favor. This case emphasizes that the limitations period should account for the time it takes for a plaintiff to become aware of the wrongful conduct. *McDonough v. Smith*, 139 S. Ct. 2149 (2019).

In the present case, Sutton was unaware of the constitutional violations that led to his wrongful conviction until the Mississippi Supreme Court reversed his conviction in 2018 and was released from prison. The reversal was based on the conclusion that the evidence used to convict Sutton was obtained through an unconstitutional search pursuant to an invalid warrant. Given that Sutton's awareness of the Constitutional violations against him did not occur until the Mississippi Supreme Court reversal of his conviction, then learning that Washington Co. Circuit Court order to Nolle Prosequi the case after reversal and remanded Sutton's actual release from prison is when the statute of limitations for

his claim should begin. MS Code § 99-15-53 and 99-15-55 (2018) A district attorney, or other prosecuting attorney, shall not compromise any cause or enter a nolle prosequi either before or after indictment found, without the consent of the court; and, except as provided in the last preceding section, it shall not be lawful for any court to dismiss a criminal prosecution at the cost of the defendant, but every cause must be tried unless dismissed by consent of the court. If, on the examination into the case of any person brought before a conservator of the peace other than a justice of the peace, on a charge of felony, it shall clearly appear that a felony has not been committed, but that the accused is guilty of a misdemeanor of which a justice of the peace has jurisdiction, the conservator of the peace shall require the accused to be carried before the proper justice of the peace for trial. If the conservator of the peace in such case be a justice of the peace, having territorial jurisdiction of the offense he shall convict the offender and punish him accordingly, but such conviction shall not bar a subsequent prosecution for felony in the same matter. Sutton was denied a new trial, which is in violation of his Sixth Amendment Right to confront witnesses against him. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense. Here, Sutton is being denied the right to clear his name. Sutton was

placed under the threat of receiving a mandatory natural life sentence when he was tried before the court, after being accused of crimes Sutton did not commit. Whereas Sutton pled with the trial court by screaming GENOCIDE, GENOCIDE, GENOCIDE in efforts to clear his name of the accusations brought against him.

CONCLUSION

For the foregoing reasons, the Petitioner respectfully requests that this Court grant the petition for a writ of certiorari to review the judgment of the lower court.

Respectfully Submitted

Sedric Q. Sutton

Pro Se, Petitioner