IN THE
SUPREME COURT OF THE UNITED STATES

BRADLEY DORMAN,
Petitioner,

vs.

SEC' Y FLA. DOC et. al.,
Respondents,

CASE NO.: 24-6124

REHEARING

ON PETITION FOR A WRIT OF CERTIORARI TO

ELEVENTH CIRCUIT COURT OF APPEALS

Bradley Dorman
DC# F-11590
Martin Correctional Inst.
1150 S. W. Allapattah Road
Indiantown, Florida 34956-4301

STATEMENT OF THE CASE

Petitioner filed multiple complaints and associated appeals prior to the petition in regards to his pending criminal case. The previously mentioned cases were automatically dismissed under Younger v. Harris, 401 U.S. 37 (1971) ("Younger Abstence Doctrine") and were counted as strikes against Petitioner under the Prison Litigation Reform Act ("PLRA"), 28 U.S.C. §1915(g). Petitioner is unable to file new cases, thus having constitutional rights violated by not being able to petition the government for a redress of grievance.

ARGUMENT

The application of the PLRA "three-strikes" rule, 28 U.S.C. §1915(g), against Petitioner's prior dismissals under the Younger Abstence Doctrine is unreasonable since it forces cases to be automatically dismissed and a strike placed against the filer. The automatic dismissals are not based on grounds that the filing was frivolous, malicious, or fails to state a claim upon which relief may be granted. Under Younger, the court abstains from a decision until the resolution of the pending state case. The cases automatically dismissed should not be counted as a strike against petitioner as adopted in the Ninth Circuit Court of Appeals. Washington v. Los Angeles, Cnty,. Sheriff's Dept., 833 F.3d 1048, 1057-58 (9th Cir. 2016).

The Ninth Circuit Court of Federal Appeals recognizes a Younger dismissal as a Federal Rule of Civil Procedure 12(b)(1) dismissal for lack of subject matter jurisdiction, which does not trigger a PLRA strike. The Eleventh Circuit has yet to

rule the application of Younger in relation to the PLRA "three-strike" rule. Under United States Supreme Court Rule 10(c), a United States Court of Appeals has decided an important question of federal law that has not been, but should be, settled by this Court. Id. 1057

Under the United States First Amendment and standing U.S. Supreme Court precedent, prisoners have a constitutional right to access the courts. Bounds v. Smith, 430 U.S. 817, 821 (1977). As stated in the First Amendment:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

The Federal law requires states to waive filing or other court fees for indigent person's and also limit them under certain conditions under 28 U.S.C. §1915(g), which states:

> In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted unless the prisoner is under imminent danger of serious physical injury.

The current statue 28 U.S.C. §1915(g) blocks litigants from petitioning the government for a redress of grievances. Congress and the Courts must provide a better method than blocking legitimate litigation from being heard. The minimal annoyance some litigants might cause is well worth the cost. The long-standing

tradition of leaving the door open to all classes of litigants is a proud and decent one worth maintaining. Talamini v. All State Ins., Co., 470 U.S. 1067, 1069-70 (1985).

Freedom of access to the Courts is a cherished value in our society. The courts provide the mechanism for the peaceful resolution of disputes that might otherwise give rise to attempts at self-help. There is, and should be, the strangest presumption of open access to all levels of the judicial system. This court, above all should uphold the principle of open access to the courts as secured under the federal constitution. As stated under 28 U.S.C. §1915(b)(4):

> In no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reasons that the prisoner has no assets and no means by which to pay the initial partial filing fee.

Prisoners are being prohibited from bringing civil actions when they have insufficient assets to cover the filing fee. Courts should be better gatekeepers in determining when a case is actually frivolous or is just a reasonable issue with merit from a litigant that utilizes the court system effectively. A litigant who files the same claim successively against the same parties is not the same as one who files a newly relevant claim against a fresh party. By enacting the PLRA, congress has deprived prisoners and other indigents of a significant procedural right that un-institutionalized paying litigants enjoy and has not provided a rational justification.

For this differential treatment, filing fees can be recovered by prevailing parties, and should be considered when initially reviewing the case. Moore v.

Maricopa Cnty. Sheriff's Office, 657 F.3d 890, 893 (9th Cir. 2011). See also Carbajal v. McCann, 808 F.App'x 620, 630 (10th Cir. 2020).

The PLRA statute 28 U.S.C. §1915(g), violates equal protection by denying access to the courts for indigent prisoners while affording it to similarly situated prisoners who can pay the filing fee. The guarantee of equal protection of the law in the Fourteenth Amendment undoubtedly intended that all persons should have access to the courts and may not be denied to the poor, while available to the wealthy. The equal protection of the law does not mean merely equal protection of those laws, which concern the violation of constitutional rights. Rather, it requires equal protection of all the laws. Neitzke v. Williams, 490 U.S. 319, 327-30 (1989). See also Barbier v Connolly, 113 U.S. 27 (1885); Mitchell v. Farcass, 112 F.3d 1483 (11th Cir. 1997).

The PLRA strips in forma paupers ("IFP") litigant by denying them equality of treatment in the federal courts. The differential treatment cannot be justified by the stated purposes of the PLRA, to deter frivolous prison litigation and ease the burden of such suits on the federal courts. Easing the small bit of the courts burden that is made up of IFP complaints cannot be justified when weighted against the procedural rights IFP litigants are denied. Depriving one group of this right, while retaining it for another, stand in stark opposition to established principles of equal access to courts for all litigants, the intended purpose of 28 U.S.C.. §1915 (b)(4). Coppedge v. United States, 369 U.S. 438, 447 (1962) (noting that the purpose of the IFP status was "to assure equality of consideration for all litigants.").

WHEREFORE, the petitioner prays this court removes the automatic PLRA striking of automatically dismissed cases in relation to the Younger Abstence Doctrine.

CONCLUSION

The motion for rehearing should be granted.

VERIFICATION

I have read the foregoing motion and hereby verify that the matters alleged herein are true, except as to matters alleged on information and belief, and, as to those, I believe them to be true. I certify under penalty of perjury that the foregoing is true and correct. Executed on this 1st day of May 2025 under 28 U.S.C. §1746.

/S/BRADLEY DORMAN
Bradley Dorman

PROOF OF SERVICE

I, Bradley Dorman, do swear or declare that on this date, March 19, 2025, as required by Supreme Court Rule 29 I have served the enclosed "Motion for Rehearing" on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Robert Bryner, 1150 S.W. Allapattah Road, Indiantown, Florida 34956-4301; Ricky Dixon, Secretary Florida Department of Corrections, 501 South Calhoun St., Tallahassee, Fl 32399-2500, Ashley Moody, Attorney General, The Capitol PL-01, Florida 32399-1050

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

Executed on May 1st, 2025.

/S/ BRADLEY DORMAN
Bradley Dorman

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITS TYPEFACE REQUIREMENTS, AND TYPE-STYLED REQUIREMENTS

1. **Type-Volume**

This document complies with the word limit of S. Ct. 33(2)
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/S/ BRADLEY DORMAN
Bradley Dorman

Dated: May 1st, 2025

CERTIFICATE THAT PETITION FOR REHEARING IS PRESENTED IN GOOD FAITH AND NOT DELAY

The petition is presented in good faith and not for delay, under U.S. Supreme court Rule 10(c) the United States Court of Appeals has decided an important question of Federal law that has not been, but should be, settled by this Court, or has decided an important Federal question in a way that conflicts with relevant decisions of this Court. The Ninth Circuit Court of Appeals, has decided in conflict with other Courts of Appeal in the Federal Circuit. Most notably, in Washington v. Los Angeles, Cnty., Sheriff's Dept., 833 F.3d 1048, 1057-58 (9th Cir. 2016); Lund v. Datzman, 2020 U.S. Dist. LEXIS 115525 (E.D. Cal. 2020); Dammarell v. Coyote Ridge Corrections, U.S. Dist. LEXIS 17202 (E.D. Wash. 2024)

VERIFICATION

I have read the foregoing motion and hereby verify that the matters alleged herein are true, except as to matters alleged on information and belief, and, as to those, I believe them to be true. I certify under penalty of perjury that the foregoing is true and correct. Executed on this 1st day of May 2025 under 28 U.S.C. §1746.

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