

~~24-6131~~ ORIGINAL
IN THE

SUPREME COURT OF THE UNITED STATES

KRISTOPHER FREDA - PETITIONER
(Your Name)

vs.

FILED
OCT 31 2024
OFFICE OF THE CLERK
SUPREME COURT, U.S.

STATE OF OREGON - RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI (CORRECTED/AMENDED)

KRISTOPHER FREDA, SID #15867625
(Your Name)

Oregon State Penitentiary (OSP) 2605 State St.
(Address)

Salem, OR 97310
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

- 1) If the petitioner is really scared, that the gang members incarcerated at Oregon State Penitentiary (OSP) are going to kill him for refusing to sit on the opposite side of the cafeteria and the OSP correctional officers have proved that they can't protect him (petitioner has been assaulted at least 6 times at OSP and doesn't fight back), does the petitioner's situation warrant the same protection as SCOTUS affirmed for the California prisoners in 2011 (Brown v. Plata, 131 S. Ct. 1910, 179 L.Ed2d 969, 563 U.S. 493 (2011), which was the release of approximately 37,000 prisoners to get the prisoner population down to 137.5% of designed capacity. There were two unnecessary constitutional violations, (1) the cruel and unusual punishments clause of the Eighth Amendment and (2) due process clause of the Fourteenth Amendments on prisoners with serious mental disorders and a class of prisoners with serious medical conditions and the petitioner believes because of the fact that he suffers from a severe mental disorder that he deserves a Equality compassionate release due to these two Constitutional violations.
- 2) Does the petitioner have a right to the same protection the California prisoners received?
- 3) Does SCOTUS have the power to Mandamus the Oregon Court of Appeals and the Oregon Supreme Court to review cases: State v. Freda, 372 Or. 192, 546 P.3d 913 (Or. 2024) & State v. Freda. 333 Or. App. 122, A179873 (Or. App. Jun 05,2024) & State v. Freda, 372 Or. 192 (S070936 (Or. Apr. 11 2024) & State v. Freda, A180194 (Or. App. Feb 22, 2024) & State v. Freda, 544 P.3d 451, 331 Or. App. 348 (Or. App. 2024) using a heightened standard-of-review set out in the Oregon Supreme Court case: State v. Rangel, 328 Or. 294 (Or. 1999) because currently there is a violation of the petitioner's right to free speech protected in the 1st Amendment of the U.S. Constitution.
- 4) Can SCOTUS review my case to prevent a murder.....please? It's scary at OSP and they found a knife last year so the gang members could have a shank already.

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

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:

Petitioner

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Salem, OR 97310

Respondent

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RELATED CASES

1. State v. Freda, 372 Or. 192, S070936 (Or. Apr 11 2024)
2. State v. Freda, A180194 (Or. App. Feb 22, 2024)
3. State v. Freda, 544 P.3d 451, 331 Or. App. 348 (Or. App. 2024)
4. State v. Freda, 333 Or. App. 122, A179873 (Or. App. Jun 05, 2024)
5. State v. Freda, 372 Or. 192, 546 P.3d 913 (Or. 2024)

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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 – Case # A179873

[] For cases from federal courts:

The opinion of the United States court of appeals appears at Appendix _____ 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 _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

[X] For cases from state courts:

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

[] reported at _____; or,
[X] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the Oregon Court of Appeals court appears at
Appendix A to the petition and is

[] reported at _____; or,
[X] has been designated for publication but is not yet reported; or,
[] is unpublished.

JURISPICTION – Case #A179873

[] For cases from federal courts:

the date on which the United State Court of Appeals decided my case was _____

[] No petition for rehearing was timely filed in my case.

[] A timely petition for rehearing was denied by the United Stat s Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition or 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).

[X] For cases from state courts:

The date on which the highest state court decided my case was 6-5-24, A copy of that decision appears at Appendix A.

[X] A timely petition for rehearing was thereafter denied on the following date: 10-24-24, and a copy of the order denying rehearing appears at Appendix C.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. .

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Constitution 1 st Amendment	Question Presented	Page, 7
U.S. Constitution 8 th Amendment	3, 4, 5, 6,	7
U.S. Constitution 14 th Amendment	3, 5, 6,	8
18 U.S.C. Sec 3582 ©(1)(A)		4, 6

STATEMENT OF THE CASE

The Petitioner has been ordered by gang member adults in custody (AIC) at Oregon State Penitentiary "OSP" to sit on the opposite side of the cafeteria during meal times but the petitioner feels as if though he has a right to sit on either side and refuses. The petitioner has been assaulted by these gang members 6 times since being incarcerated at OSP. The petitioner has been threatened that the gang members will send "torpedoes" to stab him and kill him if continue to refusing to sit on the opposite side of the cafeteria. The petitioner does not fight back and suffers from a severe mental health disorder known as schizophrenia unspecified.

The petitioner, recognizing that these gang members AIC are not quitting or letting up would like to cite that in 18 U.S.C Sec. 3582 (a) it says that the court in determining the length of sentence that an offender should serve that the court shall to the extent that they are applicable recognize that imprisonment is not an appropriate means of promoting correction and rehabilitation and about determining the type of prison facility appropriate for the defendant.

With that being said, the petitioner feels like OSP is not the best appropriate prison facility for himself and is requesting an emergency compassionate release due to the death threats by the other gang members in accordance with 18 U.S.C. Sec 3582 (c)(1)(A) due to the extraordinary and compelling reasons of being assaulted by gang members 6 times already and the OSP correctional Officer Staff have yet to protect him from any of the gang members. There continued showing of failing to protect him against these gang members is a direct violation of the 8th Amendment to the U.S. Constitution and the petitioner is seeking relief from the State of Oregon and Oregon DOC failure to protect him. This is an urgent need and the petitioner believes that it is life threatening. The petitioner is struggling going to his behavioral health services groups and counseling due to these gang member threats. The petitioner is scared to go to yard and does not get any recreation time to avoid these gang members. The petitioner wants SCOTUS to know that he has probably been punched 260+ times without the correctional officers at OSP seeing anything. He feels very threatened and his mental health is deteriorating because of it and is very sad. The petitioner wants to ask SCOTUS if they think that his guarantee of being protected from cruel and unusual punishment is being violated (8th Amendment) when over and over again these gang members are assaulting the petitioner and nothing is being done to protect him from further assaults even after repeatedly reporting it to the prison staff and Oregon Courts. The correctional officers at OSP are not even seeing the assaults happen. It's cruel to not do anything after being told. The petitioner has endured over 260+ punches on 6 different occasions and is constantly looking over his shoulder, avoiding yard time, and not attending any events. This is causing isolation, schizophrenia and depression.

The petitioner hopes that SCOTUS can see that this problem of being punched over 260+ times is an urgent matter especially since the petitioner has an undiagnosed medical condition that makes his cranium soft and easy concussive or concussible with blunt force. The petitioner is asking for a compassionate release under 18 U.S.C. Sec 3582 (c)(1)(A) because experiencing these attacks is a risk of multiple concussions on a regular basis. Some football players are recommended to stop playing football after experiencing just 2 concussions. You don't always get a gang member ordering another prisoner to sit on a particular side of a cafeteria so the petitioner feels as if though this is really an extraordinary and compelling reason to at least review the case to make a ruling.

The reason why these gang members are ordering the petitioner to sit on the opposite side of the cafeteria is due to “stalking” convictions on his record. The gang members automatically treat the petitioner as “rapists” and order him to sit in the “rapist” and “transgender” section in the cafeteria even though the petitioner does not have a “rape” charge. He is expected to sit in the “rapist” section of the cafeteria but this is against his U.S. Constitutional Right protected in the 8th Amendment against cruel and unusual punishment. The OSP Correctional Officers don’t stop the attempted segregation by the gang member AIC and this is definitely cruel and unusual to allow these gang members to run the cafeteria the way they do. The OSP correctional officers should stop this conduct by the gang members but they just allow it to happen.

The petitioner would like to cite that SCOTUS affirmed in *Brown v. Plata*, 131 S. Ct. 1910, 179 L.Ed2d 969, 563 U.S. 493 (2011) that 37,000 California prisoners with serious mental disorders and serious medical condition deserve to be released early due to two constitutional violations of the 8th and 14th Amendments to the U.S. Constitution. [The degree of overcrowding in the California prisons were exceptional. For example, the State's prisons are designed to house a population just under 80,000 but had operated around 200% of design capacity for at least 11 years where prisoners were crammed into spaces neither designed nor intended to house inmates. As many as 200 prisoners may live in a gymnasium, monitored by a few as two or three correctional officers. As many as 54 prisoners may share a single toilet.]

The petitioner asserts that he deserves to be released due to his severe mental disorder and the gang member threats on his life. The Oregon Courts have been notified but just send back correspondence that they are going to throw away and discard the petitioner's letters and motions in 6-months. The petitioner wants to use the *Brown v. Plata* case as an analogy to his situation by telling SCOTUS that just like there are violations of the U.S. Constitution in *Brown v. Plata*, in this case OSP and the Oregon Courts have violated the U.S. Constitution 8th Amendment guarantee to be protected from cruel and unusual punishment.

The Oregon Courts has been notified of the threats on the petitioner's life but nothing is being done. The Oregon Court of Appeals have been notified of the threats on the petitioner's life but nothing is being done and The Oregon Supreme Court have been notified of the threats on the petitioner's life but nothing is being done. In this case the petitioner has written multiple letters and emergency motions to the Oregon Court of Appeals dated [5/5/24, 5/7/24, 5/20/24, 5/24/24, 5/31/24} and multiple letters and emergency motions to the Oregon Supreme Court dated [6/17/24, 6/22/24, 6/23/24, 6/25/24, 6/30/24, 7/2/24, 7/3/24, 7/5/24, 7/14/24, 7/20/24, 7/29/24, 7/31/24, 8/2/24, 8/3/24} and no response was given except that the Courts sent a letter saying that because the courts don't recognize hybrid-representation that unless the defendant's lawyer came and picked up the pro se documents and put her name on them then they would be discarded in 6 months. The petitioner thinks that this is a response that is in violation of the Constitution and also really shows an extreme indifference and defenestrates the petitioner.

The petitioner is telling these courts that he has gang members threatening his life and the only thing that the courts can say is we're going to throw in the trash all your letters. The courts are not taking these death threats seriously. The petitioner would like to cite a case where the court Please see Perry v. Erdos, Civil Action 1:22-cv-178 (S.D. Ohio Sep 09,2022) where the courts after being notified of death threats on a prisoner ordered that he be transferred to another facility. This is a reaction by the Ohio courts that did not violate the U.S. Constitution 8th Amendment Right to be protected from cruel and unusual punishment. As soon as they were told of the death threats the courts handled it. But in this petitioner's case all the courts are doing is throwing the letters and motions in the trash can. Talk about showing indifference which is why the petitioner feels it a legitimate and genuine petition to SCOTUS to review the merits of the case and to order a compassionate release or at least a Mandamus for the Oregon Courts to consider a compassionate release due to the extraordinary and compelling reasons of the petitioner being punched 260+ times. The least that the Oregon Courts or SCOTUS can and should do is order the prisoner to be transported to a different facility.

Hopefully these gang members won't end his life by sending "torpedoes" to stab and kill him in the next 21 months but that hoping is not enough to satisfy the right to be protected from cruel and unusual punishment in the 8th Amendment to the U.S. Constitution. The past actions of these gang members (6 fights) are a reason to take these threats serious as well as the OSP prison staff finding a knife hidden in the book shelf in the Day Treatment Unit or DTU last year. The petitioner requests that SCOTUS review the courts response (telling the petitioner that they're going to discard the pro se documents in the trash) to look for any Violations of the U.S. Constitution and to provide relief by ordering a compassionate release under 18 U.S.C. Sec 3582 (c)(1)(A) otherwise the courts will continue to violate the 8th Amendments and 14th Amendment to the U.S. Constitution causing injury and harm that effects the petitioner's right to the pursuit of happiness. These gang members can have access to knives made in the prison and are very dangerous. Please see Williams v. Cupp, 567 P.2d 565, 30 Or. 375 (Or. App. 1977) to see how dangerous it has been at OSP where a certain prisoner had stabbed 6 employees at OSP.

In the petitioner's perspective if a prisoner is punched 260 times that should be a clear sign that something needs to change. Maybe it will take OSP prison staff 261 times to make a change. Or maybe 262 punches to the head. Or maybe even 263 punches to the head to make a change. Or maybe 264 punches to make a change. Or maybe 265 punches to make a change. It's obvious that the OSP prison staff are not taking it serious enough. SCOTUS should be able to admonish the OSP prison staff to handle it now and to admonish the Oregon courts that they are in violation of the 8th Amendments and 14th Amendments to the U.S. Constitution by not providing adequate protection from cruel and unusual punishment. SCOTUS should also be able to order a compassionate release because the petitioner has a severe mental disorder and the petitioner does not feel safe here at OSP, he only has 21 months left on his sentence left. The petitioner has served 40 months and has not had one disciplinary report or cell in since arriving at OSP in January 2023.

The petitioner requests that he has Equal Protection of the Laws due to the serious threats on his life at OSP. SCOTUS please review this petition for any violations of Protection from Cruel and unusual punishment. Please make sure the prison does something before 266 or 267 or 268 punches to the petitioner's head...

NOTES:

1. The petitioner is incarcerated for "stalking" and promises to not try to contact the alleged victims upon any release.
2. The petitioner's 8th Amendment Rights have been directly violated by OSP's failure to protect him from other AICs and the petitioner is seeking relief by SCOTUS.
3. The petitioner doesn't want to be punched any more...please help, next time it might be a knife...please take the threats serious.
4. The petitioner is being counseled by an Oregon DOC Behavioral Health Services BHS Counselor Ms. Barbara Harvey-Jackson who can be reached at OSP if needed to verify his diagnosis of unspecified schizophrenia and attends treatment.
5. The petitioner also could be released to Alternatives in St. Helens, Oregon—which is a dual diagnosis residential treatment facility for the PSRB. The petitioner already has lived here in the group home for 22 months previously. It's staffed 24 hours a day.
6. Like in *Brown v. Plata* it took years of litigation before it became apparent that a remedy for the constitutional violations would not be effective absent a reduction in the prison system population, the petitioner hopes that it doesn't take that long for the SCOTUS to see that a change needs to take place whether it be a transfer or a mandamus that Oregon Courts release via a compassionate release.
7. The petitioner requests SCOTUS to politely Mandamus the Oregon Court of Appeals to review all related cases using the highly precedential Oregon Supreme Court case: State v. Rangel, 328 Or. 294 (Or. 1999) for the Standard-of-Review because it protects the 1st Amendment right freedom of speech and this mandamus should be granted.
8. This is kind of like domestic violence because the petitioner lives with the assaulting gang members. The gang members have threatened to murder the petitioner in the showers and the petitioner demands relief from this 8th Amendment direct violation by the State of Oregon.
9. Copies of previous motions that the petitioner tried to file with SCOTUS are included in the appendices for the benefit of all parties including the petitioner.

REASONS FOR GRANTING THE PETITION

scared, scared, scared, and

NEEDS

PROTECTION.

(please quit sending correspondence to follow Federal Court Rules because there is a life at stake). This is also a violation of the petitioners right of pursuit of happiness and cruel and unusual punishment. The petitioner has sent Emergency motions to SCOTUS dated: 8/8/24, 8/9/24, 8/10/24, 8/10/24, 8/17/24, 8/19/24, 8/19/24, 8/20/24, 8/21,24 8/22/24, and 8/26/24 and every time the SCOTUS just sends it back says I didn't follow Court Rules. Well, my life has been threatened and I don't have time to go research all the hundreds of thousand of pages of Federal Court Rules. The gang members could stab me later today....it's that serious of a threat. Please quit violating my rights by the SCOTUS COURTS showing an indifference to my human life. I don't have time to type on a computer when my life is threatened by gang members. PLEASE?

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Kristopher Freda

Date: November 27, 2024