

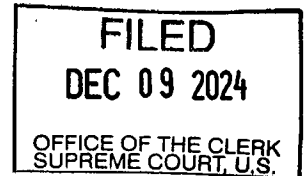
24-6165

No. 22-2771

ORIGINAL

D. Del No. 1:14-CV-D1135

IN THE  
SUPREME COURT OF THE UNITED STATES



DeShawn D. Drumgo — PETITIONER  
(Your Name)

vs.

Sgt William Kuschel — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Third Circuit Court of Appeals for Philadelphia  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

DeShawn D. Drumgo #365566  
(Your Name)

HR4CI P.O. Box 9561  
(Address)

Wilmington, DE 19809  
(City, State, Zip Code)

\_\_\_\_\_  
(Phone Number)

### QUESTION(S) PRESENTED

How Can A District Court of Delaware  
Whom Twice Dismissed This Case Only  
To Be Reversed Twice BY the 3rd Circuit  
Court of Appeals for Philadelphia  
Be Given A Third time to Override  
The Jury's Verdict & Decision?

This Same Court said Drumgo  
Did NOT Deserve A Trial Was Then  
Allow to over throw the Verdict, Decision  
And Award Reducing by 99.9 Percent?  
There is no Precedent for this  
Direct Conflict of Interest.

The Remedy Requested is That this  
Court Reinstate the Judgement Awarded  
of 500,000 And or That A New trial  
Be Given.

## 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:

## RELATED CASES

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## TABLE OF AUTHORITIES CITED

### CASES

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Drumgo v Kuschel, 684 F. App'x 228 (3d Cir Mar 27, 2017)  
Drumgo v Kuschel 811 F. App'x 115 (3d Cir May 11, 2020)  
Jester v Hutt 937 F.3d 233, 238 (3d Cir 2019)

### STATUTES AND RULES

28 U.S.C § 1291  
28 U.S.C § 1331  
28 U.S.C § 1993  
Fed R. Civ. P. 50 (b)

### OTHER

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 \_\_\_\_\_ 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☐ is unpublished.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.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits 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 \_\_\_\_\_ 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.

## JURISDICTION

[ ] For cases from **federal courts**:

The date on which the United States 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 States 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 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 \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

[ ] A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

[ ] 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. § 1257(a).

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**



## STATEMENT OF THE CASE

Drumgo, an inmate once at James T. Vaughn Corr Center in Smyrna, Delaware, was exiting the dining hall on May 29, 2014 when he was directed to Sgt Kuschel, a correctional officer, for a Frisk search. During this search, Kuschel sexually Assaulted Drumgo by grabbing and squeezing his penis.

Immediately following the assault, Drumgo filed a grievance pursuant to the Prison Rule Elimination Act.

Shortly thereafter, an internal affairs investigator interviewed only Drumgo and Kuschel despite the existence of several other percipient witnesses before declaring the grievances unfounded.

On Sept 5th, 2014 Drumgo sued Kuschel and other Prison staff that were later wrongfully excluded in the United States Dist Court for Delaware pursuant to 42 U.S.C § 1983 for violation of his First, Eighth and Fourteenth Amendment rights.

The Defendants moved for summary Judgment arguing that Drumgo had failed to exhaust his administrative remedies which turned out to be a Absolute lie in which J.T.V.C. staff was caught in which Drumgo successful appealed and won.

The 3rd Circuit Court of Appeals affirmed in part, vacated in part and remanded for Further Proceedings. After the case was remanded Kuschel moved again for summary Judgment in which this same Court AGAIN Granted Summary Judgment this time saying that Kuschel was entitled to Qualified immunity for A Sexual Assault. Drumgo again APPEaled the Third Circuit AGAIN. Reversed and Remanded see Drumgo V Kuschel 811 F. Appx 115 (3d Cir May 11, 2020). The District Court had erred again this time overlooking the 1st Prong of Qualified Immunity. Drumgo had established A Eighth Amendment violation.

a

Drumgo was Appointed Counsel and went on to win the trial In which the Jury Awarded Drumgo 500,000 in Punitive Damages, \$1 in nominal damages. However The same district Court denied Kuschel's motion "insofar as it seeks a new trial" And Granted the motion insofar as it seeks to amend the Judgment. In doing so, the same district Court whose decisions had been vacated by the 3rd circuit on Two Different Occasions. On Two Occasions this same Court of Delaware was allowed to reduce the Jury's Punitive damages award from 500,000 to 5,000. Drumgo Filed A Timely Notice of Appeal.

### SUMMARY OF THE ARGUMENT

In this Appeal, Drumgo Challenges the district court's Stunning 99% reduction for the violation of his Eighth Amendment rights. After Two Reversal and Seven Years of protracted litigation, Drumgo finally had his day in Court and he prevailed. A unanimous Jury of his Peers Found that although he was entitled to no Compensatory damages he was entitled to \$1 in Nominal damages and 500,000 Punitive damages. This District Court Committed error of many magnitudes

\* First, the trial court revived a previously waived argument and misapplied the governing law, resulting in an unjustified overreliance on case comparisons. Second the district court failed to accord proper deference to the Jury's fact finding. No irregularity occurred in the management of the Jury and it was instructed to consider the evidence rationally and without passion or prejudice. The district court should not have submitted or substituted its view of appropriate amount of punitive damages for the Jury's determination. Moreover, even if a reduction were necessary - which it was not the award should have been trimmed of only the Unconstitutional excess. A 99% reduction is beyond Pale and HIGHLY Prejudicial. A Abuse of Discretion (conflict)

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This Court therefore should vacate the Order amending the Judgment or remand with instruction to reinstate exactly what the Jury Awarded.

### Standard of Review

After repetitively searching the Westlaw & Case law there is no precedent that fits Drungo's Case of which was reversed twice by the 3rd Cir Court of Appeals issued a trial only for the same District Court to override the Jury's Decision when clearly the District Court said said twice Drungo deserves no trial then when the higher court provides him a trial the same District Court is allowed to override the Jury's Decision.

So the Plaintiff has to rely on the Review of a Trial Court constitutionally required reduction of damages is de novo see Jester V Hutt 937 F.3d 233 1238 (3d cir 2019)

## REASONS FOR GRANTING THE PETITION

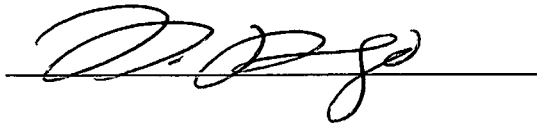
Because the Plaintiff Case was Reversed  
Twice By the 3rd circuit Court of Appeal  
For Philadelphia the same Court was  
Allowed A Third time to Destroy, Dismantle  
And or Override the Verdict of the Jury And  
Reduce the award By 99%

This was error, Abuse of Discretion  
And A Conflict of Many Magnitudes

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "D. D. J.", is written over a horizontal line.

Date: 12-5-24