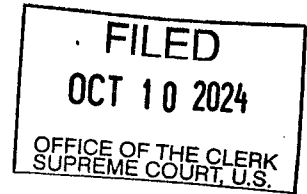


24-6171

ORIGINAL

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES



PRO-SE

DEMAJEO JEROME ELLIS PETITIONER
(Your Name)

LINDA CARPER, et al RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT
(NAME THE COURT THAT LAST RULED ON THE MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

DEMAJEO JEROME ELLIS

(Your name)

NEW CASTLE CORRECTIONAL FACILITY
1000 VAN NUYS ROAD
P.O. Box "A"
New Castle, IN 47362-1041

DECEMBER-5-2024

None

(Phone Number)

PAGE 1 OF 40

DID THE SEVENTH CIRCUIT COURT OF APPEALS ERROR
BY AFFIRMING THE DISTRICT COURT DECISION
GRANTED THE ~~ME~~ DEFENDANTS MOTION FOR SUMMARY
JUDGMENT KNOWING THE DISTRICT WEIGHED EVIDENCE,
AND CREDIBILITY ? TO SERIOUS MEDICAL NEEDS.

DID THE SEVENTH CIRCUIT COURT OF APPEALS ERROR
BY AFFIRMING KNOWING THAT THE DISTRICT COURT
DID NOT HAVE THE JURISDICTION TO ENTER A GRANT
TO SUMMARY JUDGMENT REGARDING DEFENDANTS
MS. JAMIE BAILEY, AND MS. KRISTIN WHITE ? ,

DID THE SEVENTH CIRCUIT COURT OF APPEALS ERROR
BY AFFIRMING THE DISTRICT COURT REGARDING EXCESSIVE
FORCE BY DEFENDANT MR. CREEL ?

DID THE SEVENTH CIRCUIT COURT OF APPEALS
ERROR BY AFFIRMING THE DISTRICT DECISION TO DENY
PLAINTIFF MOTION TO SET HEARING REGARDING DEFENDANT
MS. KRISTIN WHITE DEFAULT AND DEFAULT JUDGMENT
AND MOTION FOR RECONSIDERATION ., ?

IS THERE GENUINE ISSUES TO BE TRIED
BY JURY ?

PETITIONER WRIT OF PRO-SE LIST OF PARTIES PAGE 3 of 40
CERTIORARI DEMASIO J. ELLIS V. LINDA CARPER, et al
[] 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:

U.S. SOUTHERN DISTRICT COURT
INDIANAPOLIS DIVISION
105 COURTHOUSE
46 E. OHIO STREET
INDIANAPOLIS, INDIANA
46204

SEVENTH CIRCUIT APPEAL COURT
219 S. DEARBORN STREET
ROOM 2722
CHICAGO, ILLINOIS
60604

DEFENDANTS:
MS. JAMIE BAILEY
MR. KYLE MCKINNEY
MS. TERRA HOWARD
MS. JENIFFER STEELMON
MR. CHRISTOPHER COMMANDER
MS. SUZANNE DEEGAN
MR. JOSHUA LOCKE
MR. EHAP SHEHATA
MS. AMBER PLASTERER
MR. CRAIG GARY
MS. LESLIE JUAREZ
MS. JODI MURPHY
MR. STEPHEN FOSTER
MR. WAYNE JONES
MR. BRIAN MARTZ
MS. LINDA CARPER
MS. VICTORIA VANNESS
MR. HOLMES
MR. JOHN POOR
MR. SHAD PAINTER
MS. KELLY LOVEALL
MS. KRISTIN WHITE
MR. MARTIAL R. KNIESER
MR. JOHNATHAN JACKSON
MS. TIFFANY MASON
MS. TIERA MADDEN
MR. JOSHUA CREEL

INDIANA ATTORNEY GENERAL OFFICE
"STATE DEFENDANTS"

STOLL KEENON OGDEN PLLC
"MEDICAL DEFENDANTS"

DEMASIO JEROME ELLIS PRO-SE
PETITIONER #
THE GEGROUP INC
NEW CASTLE CORR FACILITY
P.O. BOX A
NEW CASTLE, INDIANA
47362

PAGE 3 OF 40

OPINIONS BELOW 1

JURISDICTION

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

STATEMENT OF THE CASE

REASONS FOR GRANTING THE WRIT

CONCLUSION

SEE CONTINUED TABLE OF CONTENTS

INDEX TO APPENDICES

APPENDIX A 6 PAGES
FINAL JUDGMENT SEVENTH CIRCUIT APPEALS COURT . ,

APPENDIX B 36 PAGES APPELLANT ~~APPENDIX~~ PLAINTIFF APPENDIX . ,

APPENDIX C 41 PAGES BRIEF OF APPELLANT .

APPENDIX D 49 PAGES JOINT BRIEF OF APPELLES . ,

APPENDIX E 15 PAGES APPELLANT REPLY BRIEF .

APPENDIX F

APPENDIX G

DEMAJIO J. ELLIS V. LINDA CARPER, ET AL

PAGE 4 OF 40

CONTINUED TABLE OF CONTENT

COVER SHEET PAGE 1.

QUESTIONS PRESENTED PAGE 2.

LIST OF PARTIES PAGE 3.

TABLE OF CONTENT PAGE 4-5.

TABLE OF AUTHORITY 6, 7, 8 PAGES.

OPINIONS BELOW PAGE 9.

JURISDICTION PAGE 10.

CONSTITUTIONAL AND STATUTORIAL PROVISION INVOLVED PAGE 11.
PAGE 11.

STATEMENT OF THE CASE PAGE 12.

REASONS FOR GRANTING THE PETITION PAGE 13.

SUMMARY OF THE ARGUMENT PAGE 14-15.

ARGUMENT PAGE 16-36.

CONCLUSION PAGE 37.

PROOF OF SERVICE PAGE 38.

CERTIFICATE OF COMPLIANCE PAGE 39.

CERTIFICATE OF SERVICE PAGE 40 OF 40.

APPENDIX A, B, C, D, E.

ADICKES V. S.H. KRESS & CO.,	22
398 U.S. 144 90 S.Ct. 1598 26	
L. Ed 2d 142 1970 U.S. Lexis 31 .,	
CENTRAL LABORERS PENSION WELFARE	35
AND ANNUITY FUNDS V. FRIGGEE,	
198 F.3d 642.644 (7th Cir. 1999 .,	
CHITWOOD V. GUADAGNOLI, 230 N.E.	32
3d 932 7th Cir. APP. FEB- 29-2024 .,	

STATUTES AND RULES

28 U.S.C. 1254 (1) .,	11
28 U.S.C. 1331 .,	11
28 U.S.C. 1343 .,	11
42 U.S.C.S. 1983 .,	11
FED. R. CIV. P. RULE 55(a) ^{55(a)} .,	34
FED. R. CIV. P. RULE 56(a) .	18
RULE 13	39
RULE 29	39
RULE 33.2	39
RULE 39 PROCEEDINGS IN FORMA PAUPERIS.	39
OTHER	

PRO-SE DEMAZIO J. ELLIS

IN THE

V.

SUPREME COURT OF THE UNITED STATES

LINDA CARPER, &c/

PETITION FOR WRIT OF CERTIORARI

PAGE 9 OF 40

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 Courts of Appeals appears in Appendix A to the petition and is

☒ reported at Ellis V. CARPER, 2024 U.S. APP. LEXIS 24129; 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 B to the petition and is

☒ reported at Ellis V. NURSE, 2024 U.S. DIST. LEXIS 23044; 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.

PAGE 9 OF 40

CONTINUED

TABLE OF AUTHORITIES CITED

CASES:

DIXIE GAS & Food, INC

V. SHELL OIL CO.; 2008 ILLINOIS

PAGE 25

ELLIS V. TALBOT 2021 IND LEXIS 188146 ^{PAGE} 30

ESTELLE V. GAMBLE, 429 U.S. 97 97

S.Ct. 285 50 L.Ed 2d 251 1976 U.S.

LEXIS 175. PAGE 17,

FARMER V. ~~BRENNAN~~ BRENNAN, 511 U.S.

825 114 S.Ct. 1970 128 L.Ed. 2d 811

1994. PAGES 20, 21.

FIRST NAT'L BANK V. CITIES SERV.

Co.; 391 U.S. 253 88 S.Ct 1575 20

L.Ed 2d 569 1968 U.S. LEXIS 2922

PAGE 23

GARVIN V. ARMSTRONG, 236 F.3d 896, 898

(7th Cir. 2001) PAGE 27.

GAYTON V. MCCOY, 593 F.3d 610 7th Cir. App
JANUARY - 28 - 2010 PAGE 27.

PRO-SE DEMAJIO J. ELLIS V. LINDA CARPER, et al
PETITIONER
WRIT OF HABEAS CORPUS

PAGE 8 OF 40

CONTINUED TABLE OF AUTHORITIES

CASES

GRAY V. GHOSH, 2014 U.S. DIST. LEXIS 90486
ILLINOIS JULY 3-2014. PAGE 28.

HOWARD V. HECKLER, 1984 U.S. DIST. LEXIS
20842 ILLINOIS SEP-25-1984. PAGE 29.

MCDANIELS V. SMITH, 2021 INDIANA. PAGE 28.

MOHAMMAD V. LASHBROOK, 2019 7th CIR. APP
ILLINOIS. PAGE 26.

WHITE V. WHITE COUNTY JAIL, 2011 U.S. DIST.
LEXIS 91089 ILLINOIS PAGE 27.

WILLIAMS V. WERLINGER, 795 F.3d
759 (7th CIR. 2015) PAGE 35

VERSER V. SMITH, 2016 U.S. DIST LEXIS 86434
ILLINOIS NORTH PAGE 31.

PAGE 8 OF 40

PRO-SE DEMARIO J. ELLIS
V.
LINDA CARPER, et al.
☒ For cases from federal courts:

JURISDICTION PETITIONER WRIT OF
CERTIORARI

PAGE 10 OF 40

The date on which the United States Court of Appeals decided my case
was SEPTEMBER 23 - 2024.

☒ 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 the Court is invoked under 28 U.S.C. §1254(1).

[] For cases from the 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 Appendix
No. A.

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

PAGE 10 OF 40

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

PRO-SE DEMAJIS J. ELLIS
LINDA CARPER, ET AL.

PETITIONER WRIT OF
CERTIORARI

42 U.S.C. § 1983 PRISONER CIVIL COMPLAINT

EIGHTH AMENDMENT DELIBERATE INDIFFERENCE

EIGHTH AMENDMENT PROHIBITION AGAINST CRUEL AND ~~UNUSUAL~~

UNUSUAL PUNISHMENT IMPOSES A DUTY ON THE STATES, THROUGH
THE FOURTEENTH AMENDMENT

EXCESSIVE FORCE.

DELIBERATE INDIFFERENCE TO SERIOUS MEDICAL NEED,
DENIED AND DELAYED ACCESS TO ADEQUATE MEDICAL CARE.

28 U.S.C. 1331 AND 1343 VIOLATION OF
FEDERAL CONSTITUTIONAL RIGHT

PAGE 11 OF 40

LINDA CARPER, et al. PETITIONER WRIT OF HABEAS CORPUS

THIS IS A CONSOLIDATED ACTION,

AT ALL TIMES RELEVANT TO THIS CASE THE PETITIONER WAS A PRISONER INCARCERATED IN THE INDIANA DEPARTMENT OF CORRECTION AT THE PENITENTON CORRECTIONAL FACILITY WHILE HOUSED IN THE G CELLHOUSE SEGREGATED HOUSING.

THE PETITIONER WAS DIAGNOSED WITH ASTHMA IN 2019. BETWEEN SEPTEMBER 2019, AND MAY 2020 THE PETITIONER SUFFERED SERIOUS MEDICAL NEEDS SPECIFICLY "PASSING OUT UNCONSCIOUS, WHEEZING, DIZZINESS, SEVER CHEST PAINS, SHORTNESS OF BREATH, IRREGULAR HEART BEATS, LIGHT HEADEDNESS. VOMITING INCLUDING UNCONSCIOUS APPROX 17 TIMES. INCLUDING A EXCESSIVE FORCE INCIDENT WHILE I WAS SUFFERING A SERIOUS MEDICAL NEEDS WHERE OFFICER MR. CREEL PLACED VERY TIGHT HAND CUFFS ON ME.

~~THE~~ PETITIONER SUED APPROX 28 DEFENDANTS 14 MEDICAL DEFENDANTS, AND 14 CORRECTIONAL STAFF DEFENDANTS.

DURING ALL TIMES RELEVANT PETITIONER WAS ON A PRESCRIPTION OF XOPENEX HFA INHALERS AND SUFFERED ITS SIDE EFFECTS.

AND ~~THE~~ MEDICAL DEFENDANT WAS NOT SERVED, AND ANOTHER DEFENDANT WAS SERVED BUT FAILED TO RESPOND AND DEFAULT WAS ENTERED AGAINST MS. KRISTIN WHITE.

LINDA CARPER, ET AL PETITIONER WRIT OF CERTIORARI

SEVENTH CIRCUIT U.S. COURT OF APPEALS, HAS ENTERED
A DECISION TO AFFIRM THE DISTRICT COURT THATS IN
CONFLICT WITH THE DECISION OF THE
UNITED STATES SUPREME COURT
ON THE SAME IMPORTANT MATTER .,

THE SEVENTH CIRCUIT APPEAL COURT AND THE
DISTRICT COURT BOTH HAS FAR DEPARTED
FROM THE ACCEPTED AND USUAL COURSE
OF THE JUDICIAL PROCEEDINGS .,

CALL FOR AN EXERCISE OF THIS
COURTS SUPERVISORY POWER .

THE SEVENTH CIRCUIT U.S. COURT OF APPEALS HAS
ENTERED A DECISION IN CONFLICT WITH THE
DECISION OF ANOTHER AND THE SAME U.S. COURT
OF APPEALS ON THE SAME IMPORTANT MATTER

SUMMARY OF THE ARGUMENT

THE SEVENTH CIRCUIT COURT ERRED BY THEIR AFFIRM OF THE DISTRICT COURT GRANT OF THE DEFENDANTS MOTION FOR SUMMARY JUDGMENT. THERE IS STRONG AND CLEAR GENUINE ISSUES TO BE TRIED BY JURY.

ALL DEFENDANTS COLLECTIVELY, AND INDIVIDUALLY, KNOWINGLY AND INTENTIONALLY DENIED AND DELAYED ME ACCESS TO ADEQUATE MEDICAL CARE, DELIBERATE INDIFFERENT TO MY SERIOUS MEDICAL NEEDS AND DURING AN URGENT INCIDENT DEFENDANT MR-CREEL USED ~~EXCESSIVE~~ EXCESSIVE FORCE BY TIGHT HANDCUFFS

INTENTIONALLY AND KNOWINGLY.

EACH DEFENDANT KNEW OF MY ASTHMA DIAGNOSIS, THEY WERE ALSO MADE AWARE THAT MY XOPENEX HFA INHALER WAS NOT HELPING DURING MY INCIDENTS

THE DISTRICT COURT ALSO LACKED JURISDICTION REGARDING DEFENDANT MS. JAMIE BAILEY BECAUSE ~~SHE~~ SHE WAS NEVER SERVED AS THE COURT ORDERED FOR HER TO BE.

PRO-SE

DEMAJIO JEROME ELLIS V. LINDA CARPER, ET AL.
PETITIONER WRIT OF
CERTIORARI

PAGE 15 OF 40

CONTINUED SUMMARY OF THE ARGUMENT

AND THE DEFENDANT MS. KRISTIN WHITE
WAS SERVED BUT REFUSED TO RESPOND
THEN DEFAULT WAS ENTERED AGAINST
HER.

THE COURT DENIED MY MOTIONS TO
SET HEARING REGARDING DEFAULT,
AND DEFAULT JUDGMENT, AND RECONSIDER.

PAGE 15 OF 40

PRO-SE DEMAYIO JEROME ELLIS V. LINDA CARPER, et al
PETITIONER
WRIT OF CERTIORARI PAGE 16 of 40

~~CONSTITUTIONAL~~ ~~ORDER~~ ~~RECEIVED~~
~~RECEIVED~~ ~~RECEIVED~~ ~~RECEIVED~~,
~~CONSTITUTIONAL~~ ARGUMENT

THE SEVENTH CIRCUIT COURT OF APPEALS
HAS ERRED BY AFFIRMED.
THE EVIDENCED PRESENTED AT
THE SUMMARY JUDGMENT STAGE
INCLUDING MY SWORN AFFIDAVIT
SHOWS STRONG AND CLEAR
GENUINE ISSUES TO BE TRIED
BY JURY

ALL DEFENDANTS KNOWINGLY AND
INTENTIONALLY DENIED AND DELAYED ME
ACCESS TO ADEQUATE MEDICAL CARE
AND DELIBERATE INDIFFERENT TO MY
SERIOUS MEDICAL NEEDS,
AND

MR. CREEL KNOWINGLY AND INTENTIONALLY
USED EXCESSIVE FORCE ON ME.

ALL THE DEFENDANTS CAUSED ME, PROLONGED
UNNECESSARY, NEEDLESS, WANTON, MENTAL AND
PHYSICAL PAIN AND SUFFERING AND
WORSENERD MY HEALTH

CONTINUED ARGUMENT

SEE: ESTELLE V. GAMBLE, 429
U.S. 97 97 S.Ct. 285 50 L.Ed. 2d
251 1976 U.S.LEXIS 175 ,

AN INMATE MUST RELY ON PRISON
AUTHORITIES TO TREAT HIS MEDICAL
NEEDS; IF THE AUTHORITIES FAIL
TO DO SO, THOSE NEEDS WILL NOT BE
MET.

DELIBERATE INDIFFERENCE TO SERIOUS
MEDICAL NEEDS OF PRISONERS
CONSTITUTES THE UNNECESSARY
AND WANTON INFLECTION OF PAIN
PROSCRIBED BY U.S. CONST EIGHTH
AMENDMENT.

WHETHER THE INDIFFERENCE IS
MANIFESTED BY PRISON DOCTORS
IN THEIR RESPONSE TO THE PRISONER'S
NEEDS OR BY PRISON GUARDS IN
INTENTIONALLY DENYING OR DELAYING
ACCESS TO MEDICAL CARE OR
INTENTIONALLY INTERFERING WITH
THE TREATMENT ONCE PRESCRIBED.

CONTINUED ARGUMENT

THE DISTRICT WEIGHED EVIDENCE
AND CREDIBILITY. AND DID NOT
BELIEVE THE NON-MOVANT EVIDENCE
AND ALL JUSTIFIABLE INFERENCES
TO BE DRAWN IN HIS FAVOR AT THE
SUMMARY JUDGMENT STAGE .
AS AGAINST CIVIL RULE 56 (a)

SEE PETITIONER APPENDIX B

PAGE 18 OF 36 , THE DISTRICT COURT

ix. ADDITIONAL RELEVANT FACTS STATES:

MR. ELLIS TESTIFIED THAT DURING THIS
PERIOD HE FAINTED APPROXIMATELY 20 TIMES
BUT EVERY INCIDENT OCCURRED IN HIS CELL
AND NO OTHER PERSON WITNESSED HIM FAINT.

D. HANDCUFF INCIDENT

THE COURT ACKNOWLEDGE THAT I TOLD
OFFICER ~~MR~~ MR. CREEL THE HANDCUFFS
WERE TOO TIGHT, AND OFFICER CREEL
RESPONDED "DO YOU WANT TO GO TO MEDICAL,
OR DO YOU WANT THE CUFFS OFF?"

PRO-SE

DEMAJED JEROME ELLIS V- LINDA CARPER, et al
PETITIONER
WRIT OF CERTIORARI PAGE 19 OF 40

CONTINUED ARGUMENT

AND MR. ELLIS FELT PAIN IN HIS WRISTS
FROM THE PRESSURE OF THE HANDCUFFS
~~HE~~ HE WAS IN THE HANDCUFFS ABOUT
40 MINUTES. AFTER THE INCIDENT
ELLIS SUBMITTED AN EMERGENCY HEALTHCARE
REQUEST STATED THE HANDCUFFS CAUSED
BLACKISH REDISH RASHES AND SCAB SOARS
ON BOTH WRIST.

ALSO SEE: PETITIONER APPENDIX C
BRIEF OF APPELLANT PAGE 31 OF 41

OFFICER MR. CREEL KNOWINGLY AND
INTENTIONALLY PLACED THE HANDCUFFS
ON ME TO CAUSE ME PAIN AND SUFFERING
TO INJUR ME BECAUSE HE WAS
MAD THAT HE HAD TO ESCORT ME
TO MEDICAL AS SOON AS GOT TO WORK

ALSO SEE: PETITIONER APPENDIX C
BRIEF OF APPELLANT PAGES
35, 36, 37 OF 41

PAGE 19 OF 40

PRO-SE

DEMAJIO JEROME ELLIS V. LINDA CARPER, ET AL,
PETITIONER
WRIT OF CERTIORARI PAGE 20 OF 40

CONTINUED ARGUMENT

SEE: FARMER V. BRENNAN, 511 U.S. 825

114 S. CT. 1970 128 L. ED. 2d 811 1994,

A PRISON OFFICIAL'S DELIBERATE
INDIFFERENCE TO A SUBSTANTIAL RISK
OF SERIOUS HARM TO AN INMATE VIOLATES
THE EIGHTH AMENDMENT. THE TERM
"DELIBERATE INDIFFERENCE"

REQUIRES A SHOWING THAT THE OFFICIALS
WAS SUBJECTIVELY AWARE OF THE ~~RISK~~
RISK.

IN IT'S PROHIBITION OF CRUEL AND
UNUSUAL PUNISHMENT, THE EIGHTH
AMENDMENT PLACES RESTRAINTS ON
PRISON OFFICIALS, WHO MAY NOT, FOR EXAMPLE,
USE EXCESSIVE PHYSICAL FORCE AGAINST
PRISONERS.

~~PRISON OFFICIALS~~ THE AMENDMENT
ALSO IMPOSES DUTIES ON THESE
OFFICIALS, WHO MUST PROVIDE AND
ENSURE THAT INMATES RECEIVE
ADEQUATE MEDICAL CARE, AND
MUST TAKE REASONABLE MEASURES TO
GUARANTEE THE SAFETY OF THE INMATES.

CONTINUED ARGUMENT

CONTINUED FARMER V. BRENNAN, 1994

A PRISON OFFICIAL VIOLATES THE
EIGHTH AMENDMENT WHEN TWO
REQUIREMENTS ARE MET.

FIRST, THE DEPRIVATION ALLEGED
MUST BE, OBJECTIVELY, SUFFICIENTLY
SERIOUS.

SECOND A PRISON OFFICIAL MUST HAVE
A SUFFICIENTLY CULPABLE STATE OF
MIND TO THE INMATE HEALTH OR
SAFETY.

42 USCS 1983 CONTAINS NO STATE-OF-
MIND REQUIREMENT INDEPENDENT
OF THAT NECESSARY TO STATE A
VIOLATION OF THE UNDERLYING CONSTITUTIONAL
RIGHT.

PRO-SC

DEMAJIO JEROME ELLIS V. LINDA CARPER, ET AL.
PETITIONER

WRIT OF CERTIORARI PAGE 22 OF 40

CONTINUED

ARGUMENT

SEE: ADICKES V. S.H. KRESS &
CO., 398 U.S. 144 90 S. Ct. 1598
26 L. Ed 2d 142 1970 U.S. 1615 31.

~~SEE~~ STATE :

WHERE THE EVIDENTIARY MATTER
IN SUPPORT OF THE MOTION DOES
NOT ESTABLISH THE ABSENCE OF
A GENUINE ISSUE, SUMMARY
JUDGMENT MUST BE DENIED
EVEN IF NO OPPOSING EVIDENTIARY/
MATTER IS PRESENTED.

TRIAL BY AFFIDAVIT IS NO
SUBSTITUTE FOR TRIAL BY JURY
WHICH SO LONG HAS BEEN THE
HALLMARK OF EVEN HANDED
JUSTICE.

PAGE 22 OF 40

CONTINUED ARGUMENT

SEE: FIRST NAT'L BANK V.
CITIES SERV. CO., 391 U.S. 253
88 S.Ct 1575 20 L.Ed 2d 569
1968 U.S. LEXIS 2922 .

STATE:

ALL THAT IS REQUIRED IS
THAT SUFFICIENT EVIDENCE
SUPPORTING THE CLAIMED
FACTUAL DISPUTE BE SHOWN TO
REQUIRE A JURY OR JUDGE TO
RESOLVE THE PARTIES DIFFERING
VERSIONS OF THE TRUTH AT
TRIAL.

PRO-SE DEMASIO J. ELLIS V. LINDA CARPER, et al
PETITIONER

WRIT OF CERTIORARI PAGE 24 OF 40

CONTINUED ARGUMENT

SEE DISTRICT DOCUMENT 168 JUNE-9-2023

PLAINTIFF EXHIBITS B, C, D, E, F, J, H,
I, K, L, M & DEFENDANT MEDICAL
RESPONSES TO PLAINTIFF FIRST REQUEST
FOR ADMISSION # 3, # 4, # 5, # 6,
7, AND # 8.

ALL ANSWERS WERE THE SAME THAT
THEY KNEW THE SYMPTOMS OF
CHEST PAINS, WHEEZING, SHORT BREATH
FAINTING UNCONSCIOUS, ASTHMA ATTACKS
HEART ATTACKS AND CARDIAC ARREST,
IS AN URGENT MEDICAL SITUATION
REQUIRING IMMEDIATE TREATMENT.

SEE DISTRICT COURT DOCUMENT 154

MAY-2-2023, MEDICAL DEFENDANTS
EXHIBIT O DEPOSITION JANUARY-13-2023
& PAGE 91-92

MY HEALTH CONDITION PREVENTED ME
FROM DAILY ACTIVITIES OF RECREATION
EXERCISING, WORKOUT, FEAR OF DEATH,
ENABLE TO ENJOY LIFE

PRO-SE DEMASIO J. Ellis V. LINDA CARPER, ET AL
PETITIONER
WRIT OF CERTIORARI

PAGE 25 OF 40

CONTINUED

ARGUMENT

SEE : DIXIE GAS & FOOD, INC V.
SHELL OIL CO., 2008 ILLINOIS,
STATED :

AFFIDAVITS CREATE AN ISSUE
OF FACT, EVEN A SELF-SERVING
ONE CAN CREATE AN ISSUE OF
MATERIAL FACT

ON THE EXACT DATES AND
APPROX TIMES ALLEGED IN MY
AMENDED COMPLAINT AND
AFFIDAVITS, INCLUDING THE RECORD
AND EVIDENCE AT THE SUMMARY
JUDGMENT STAGE AND APPEALS
CLEARLY SHOWS THAT ALL EACH
AND EVERY DEFENDANTS KNOWINGLY
AND INTENTIONALLY DENIED AND DELAYED
ME ACCESS TO ADEQUATE MEDICAL CARE
AND DELIBERATE INDIFFERENT TO MY
SERIOUS MEDICAL NEEDS AND CAUSED
ME, UNNECESSARY, PROLONGED, WASTON.
NEEDLESS MENTAL AND PHYSICAL
PAIN AND SUFFERING

PRO-SE

DEMAJIO JEROME ELLIS V. LINDA CARPER, ET AL
PETITIONER
WRIT OF CERTIORARI

PAGE 26 OF 40

CONTINUED

ARGUMENT

ON THE EXACT TIME AND DATES
~~ON THE~~ REGARDING EACH INCIDENT
~~ON THE~~ I WAS PRESCRIBED A
XOPENEX HFA INHALERS
THAT WAS ALSO AFFECTING ME.

~~SEE~~

SEE: MOHAMMAD V. LASHBROOK,
2019 ILLINOIS 7th Cir APP.

STATES:

XOPENEX HFA INHALERS
SIDE EFFECTS CAUSES CHEST PAINS,
DIZZINESS, FAST HEART RATE
AND SHORTNESS OF BREATH.

THESE SIDE EFFECTS WERE
THE EXACT SERIOUS HEALTH ISSUES
THAT WAS CAUSING ME PAINS
AND SUFFERING.

EACH AND EVERY DEFENDANT
KNEW THAT I ALSO WAS
DIAGNOSED WITH ASTHMA.

PRO-56

DEMAJIO J. ELLIS V. LINDA CARPER, BE & OI
PETITIONER
WRIT OF CERTIORARI

PAGE 27 OF 40

CONTINUED ARGUMENT

SEE: WHITE V. WHITE COUNTY JAIL, 2011

U.S. DIST. LEXIS 91089 ILL SOUTHERN.

STATE:

CHEST PAIN COMMON INDICATION OF
A POTENTIAL HEART ATTACK THAT
MOST LAYMON WOULD RECOGNIZE THE
NEED TO TREAT SERIOUS MEDICAL NEED.

SEE: GAYTON V. MCCOY, 593 F.3d 616 7th

Cir. APP JAN-28-2010 STATES:

A DELAY IN THE MED IF PAINFUL
EVEN NON-LIFE THREATENING CAN SUPPORT
DELIBERATE INDIFFERENT TO SERIOUS
MEDICAL NEEDS

SEE: GARVIN V. ARMSTRONG, 236 F.3d 896, 898

(7th Cir. 2001).

ASTHMA IF SERIOUS ENOUGH CAN
CONSTITUTE INJURY FOR EIGHTH
AMENDMENT PURPOSES.

MY SUFFERING AND PAINS WERE
SERIOUS.

PRO-SE DEMATIO J. ELLIS V. LINDA CARPER, et al
PETITIONER
WRIT OF CERTIORARI

PAGE 28 OF 40

CONTINUED ARGUMENT

SEE DISTRICT DOCUMENT 169 JUNE-9-
2023 PLAINTIFF EXHIBIT A AFFIDAVIT
PAGE 3 PARAGRAPH 3.

I DO HAVE DIAGNOSIS AND
PRESCRIPTIONS OF HYPERTENSION,
HIGH BLOOD PRESSURE, ANGINA,
CHEST PAIN, ASTHMA, SLEEP APNEA,
AMLODIPINE, AND NITROGLYCERINE.

SEE: GRAY V. GHOSH, 2014 U.S. DIST. LEXIS
90486 ILLINOIS NORTHERN JULY-3-2014
STATE:

HEART CONDITION, DESCRIBED AS
CHEST PAIN AND HEART PALPITATIONS.

MCDANIELS V. SMITH, 2021 INDIANA
SOUTHERN, "A CARDIAC CONDITION,
INCLUDING CARDIAC ARRHYTHMIA,
CHEST PAINS, AND HYPERTENSION,
MAY CONSTITUTE AN OBJECTIVELY
SERIOUS MEDICAL CONDITION

PAGE 28 OF 40

PRO-SE DENASIO JEROME ELIS V. LINDA CARPER, ET AL
PETITIONER
WRIT OF HABEAS CORPUS

PAGE 29 OF 40

CONTINUED ARGUMENT

SEE: HOWARD V. HECKER, 1984
U.S. DIST. LEXIS 20842 ILLINOIS NORTH
SEP-25-1984, STATES:

EPISODES OF SEVERE ATTACKS IN
SPITE OF PRESCRIBED TREATMENT,
OCCURRING AT LEAST ONCE EVERY
2 MONTHS, OR ON AN AVERAGE
OF AT LEAST 6 TIMES A YEAR
AND PROLONGED EXPIRATION WITH
WHEEZING OR RHONCHI BETWEEN
ATTACKS SEVERE ATTACKS OF
EPISODES ASTHMA ARE DEFINED AS
PROLONGED EPISODES LASTING AT
LEAST SEVERAL HOURS REQUIRING
INTENSIVE TREATMENT SUCH
AS INTRAVENOUS DRUG ADMINISTRATION
OR INHALATIVE THERAPY IN THE
HOSPITAL OR EMERGENCY ROOM.

SEE DISTRICT COURT DOCUMENT 169
JUNE-9-2023 PLAINTIFF AFFIDAVIT
PAGE 11-THROUGH 20 ~~AND~~ SUMMARY
JUDGMENT STAGE: MY ASTHMA ATTACKS
WERE A SERIOUS MEDICAL NEED

PRO-SE DEMASIO J. ELLIS V. LINDA CARPER, ET AL
PETITIONER
WRIT OF CERTIORARI

PAGE 30 OF 40

CONTINUED ARGUMENT

SEE ELLIS V. TALBOT,
2021 INDIANAPOLIS SOUTHERN DISTRICT
COURT LEXIS 188146,

WHICH IS "ME" THE PETITIONER
I WAS DIAGNOSED WITH
MILD ASTHMA BASED ON THE RESULTS
OF A SPIROMETRY TEST AND
DR. TALBOT HAS TREATED ELLIS
ASTHMA WITH INHALERS, AND
NEBULIZER TREATMENTS,
INDICATING THAT MR. ELLIS
ASTHMA IS WORTHY
OF COMMENT OR TREATMENT
SEE, GRAY, 826 F.3d 1007.

PRO-SE DEMARIO J. ELLIS V. LINDA CARPER, et al
PETITIONER
WRIT OF CERTIORARI PAGE 31 OF 40

CONTINUED ARGUMENT

THE EIGHTH AMENDMENT PROTECTS
INMATES FROM CRUEL AND UNUSUAL PUNISHMENT
INCLUDING EXCESSIVE FORCE BY PRISON OFFICIALS
EXCESSIVE FORCE CLAIM

ON APRIL 24, 2020 DEFENDENT CREAL
KNOWINGLY AND INTENTIONALLY PLACED
VERY TIGHT HANDCUFFS ON ME
CAUSED ME INJURY PAIN AND SUFFERING
MENTALLY AND PHYSICALLY, ~~AND~~ ~~AND~~ ~~AND~~
INCLUDING CUTS, BRUSHES, AND SOARS
~~SEE~~ FOR WEEKS.

SEE: VERSER V. SMITH, 2016 U.S. DIST
LEXIS 86434 ILLINOIS NORTH,
HANDCUFFS TIGHT STATE PLAUSIBLE
CLAIM OF EXCESSIVE FORCE

ALSO SEE DISTRICT COURT DOCUMENT 169
JUNE 9, 2023 PLAINTIFF EXHIBIT A
AFFIDAVIT PAGE 2, AND 3 PARAGRAPHS
1. AND 2

PRO-SE

DEMASSIO J. ELLIS V. LINDA CARPER, et al
PETITIONER
WRIT OF CERTIORARI

PAGE 34 OF 40

CONTINUED ARGUMENT

I ALSO FILED FOR A RECONSIDERATION

THE DISTRICT COURT LACKED
JURISDICTION TO ENTRY OF
SUMMARY JUDGMENTS REGARDING
DEFENDANTS MS. JAMIE BAILEY
AND KRISTIN WHITE.
AND THE SEVENTH CIRCUIT
ERRED TO AFFIRM.

SEE PETITIONER APPENDIX C

BRIEF OF APPELLANT PAGE 37, 38 OF 41

DEFAULT JUDGMENT IS APPROPRIATE
WHERE A PARTY AGAINST WHOM A
JUDGMENT FOR AFFIRMATIVE RELIEF IS
SOUGHT HAS FAILED TO PLEAD OR DEFEND
Fed. R. Civ. P. 55 (2)

PAGE 34 OF 40

CONTINUED ARGUMENT

SEE: FEDERAL RULE CIVIL P. 55 (a),
DEFAULT JUDGMENT IS APPROPRIATE
WHERE A PARTY AGAINST WHOM A
JUDGMENT FOR AFFIRMATIVE
RELIEF IS SOUGHT HAS FAILED
TO PLEAD OR DEFEND.,

SEE: CENTRAL LABORERS PENSION
~~AND~~ WELFARE AND ANNUITY FUNDS
V. FRIGGEE, 198 F.3d 642,
644 (7th Cir. 1999) .,

STATES:

A JUDGMENT IS VOID IF THE
COURT ISSUED IT DOES NOT HAVE
JURISDICTION OVER THE DEFENDANT
AND IT DOES NOT IF THE
DEFENDANT IS NOT SERVED.

~~SEE~~

SEE: WILLIAMS V. WERLINGER,
795 F.3d 759 (7th Cir. 2015) ;

STATES:

REVERSING DISTRICT COURT IN CIVIL CASE,

CONTINUED ARGUMENT

STATING, THAT COURT SHOULD HAVE REQUIRED THE MARSHAL SERVICE TO DETERMINE WHERE DEFENDANTS PENSION WAS SENT, REVIEW PERSONNEL RECORDS INTERVIEW THE REAL ESTATE AGENT WHO HANDLED THE SALE OF DEFENDANTS HOUSE AND INTERVIEW OTHER EMPLOYEES AT THE FACILITY BEFORE CONCLUDING THAT REASONABLE EFFORTS TO LOCATE THE DEFENDANT WAS UNDER TAKEN.

~~THE SOUTHERN INDIANA DISTRICT COURT AND THE SEVENTH CIRCUIT CLERK RECORD AND SEVENTH CIRCUIT SHOWS THAT DEFAULT JUDGMENT WAS ENTERED AGAINST DEFENDANT MS. KRISTIN WHITE AND THE DISTRICT COURT SHOULD NOT HAVE DENIED MY MOTIONS FOR A HEARING RE CARPERS DEFAULT, RECONSIDERATION AND THAT I NEVER GOT DOCUMENTS~~

PRO-SE DEMASIO J. ELLIS
V.
LINDA CARRER, 6631

The petition for writ of certiorari should be granted.

Respectfully Submitted,

PRO-SE DEMASIO JEROME ELLIS (SIGNATURE)

Petitioner, pro se

DEMASIO JEROME ELLIS (PRINTED NAME)

Date: 12-10-2024

~~08-28-2024~~ - 10-2024

DECEMBER-5-2024

CONCLUSION

I REQUEST THIS COURT TO VACATE AND REVERSE BOTH THE SEVENTH CIRCUIT AND DISTRICT COURT AFFIRM AND THE DEFENDANTS SUMMARY JUDGMENT AND ORDER A DENY OF SUMMARY JUDGMENT TO ALL DEFENDANTS AND ORDER THE DISTRICT COURT TO SET A TRIAL AND FURTHER PROCEEDING AND TO ALLOW ME TO CONTINUE TO SUE FOR MONEY DAMAGES AS REQUESTED IN THE AMENDED COMPLAINT AND ALL OTHER RELIEF IM ENTITLED AND THIS COURT APPOINT ME A ATTORNEY TO HELP ME.

I PETITIONER DEMASIO JEROME ELLIS DO DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY PERSONAL KNOWLEDGE AND I AM COMPETENT TO TESTIFY TO ALL FACTS AND ALL APPENDIX ARE ORIGINAL AND AUTHENTIC EXECUTED ON DECEMBER - 5 - 2024

DEMASIO JEROME ELLIS PRO-SE #166596
DEMASIO JEROME ELLIS
NEW CASTLE CORRECTIONAL FACILITY
P.O. BOX A
NEW CASTLE, IN
47362-1041

PAGE 37 OF 40

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

PRO-SE DEMAJIO JEROME ELLIS -PETITIONER
(Your Name)

LINDA CARPER, Et Al -RESPONDENT(S)

PROOF OF SERVICE

I, DEMAJIO JEROME ELLIS, do hereby swear or declare that on this date, 12-5-24
DECEMBER 5, 2024, as required by Supreme Court Rule 29, I have served the
enclosed ~~MOTION FOR WRIT OF HABEAS CORPUS~~ PETITION FOR A WRIT OF
CERTIORARI on each party to the above proceeding or that party's counsel, and on every other
person required to be served, by personally handing the same to the appropriate staff at the
New Castle Correctional Facility to be placed in the facility's prison legal mail system and deposit
in the United States mail, First-Class postage prepaid AND OR CERTIFIED MAIL WITH
RETURN RECEIPT WITH SUFFICIENT PREPAID POSTAGE

The names and addresses of those served are as follows:

CLERK U.S. SUPREME COURT
1 FIRST STREET
N.E.
WASHINGTON, DC
20543-0001

INDIANA ATTORNEY GENERAL OFFICE
302 W. WASHINGTON
I.G.C.S. 5TH FLOOR
INDIANAPOLIS, INDIANA
46204-2770

STOLL KEENON OBDEN PLLC
THE EMELIE BUILDING
334 N. SENATE AVENUE
INDIANAPOLIS, INDIANA
46204

PAGE 38 OF 40

PRO-SE - DEMAJIO JEROME ELLIS V. LINDA CARPER-6681
PETITIONER WRIT OF
CERTIORARI PAGE 39 OF 40

CERTIFICATE OF COMPLIANCE

I PETITIONER DEMAJIO JEROME ELLIS PRO-SE
DECLARE, CERTIFY UNDER THE PENALTY OF PERJURY
THAT I SUBMIT THIS WRIT OF CERTIORARI
AS TRUE AND CORRECT AND IT ABIDES BY THE
RULES 29, 33.2, 13 TIMELY, RULE 39 IN FORMA PAUPERIS
AND THAT APPENDIX A, B, C, D, E
ARE ORIGINAL AUTHENTIC TRUE AND
COMPLETE COPIES AND THIS WRIT OF CERTIORARI
HAS APPROX 2300 WORDS

AND IS WITHIN THE
90 DAY TIME LIMITATION AS TIMELY
FILED ON ~~OCTOBER~~ - ~~NOV~~ DEC-5- 2024
GIVING TO THE NEW CASTLE FACILITY LAW-LIBRARY
CLERK MAILED BY PRISON MAIL BOX RULE
DECEMBER-5-2024

AND RESUBMITTED DECEMBER-5-2024
WITH MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS