

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

REGINALD JACKSON — PETITIONER
(Your Name)

E. DUSTIN VS.
Warden BICKHAM, ET AL — RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

Petitioner's affidavit or declaration in support of this motion is attached hereto.

Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

The appointment was made under the following provision of law: _____
_____, or

a copy of the order of appointment is appended.

Reginald Jackson
(Signature)

**AFFIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

I, Reginald Jackson #164746, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Self-employment	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Income from real property (such as rental income)	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Interest and dividends	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Gifts	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Alimony	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Child Support	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Unemployment payments	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Public-assistance (such as welfare)	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Other (specify): _____	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Total monthly income:	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
<u>NONE</u>	<u>NONE</u>	<u>NONE</u>	\$ <u>0</u>
			\$ <u> </u>
			\$ <u> </u>

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	\$ <u>N/A</u>
			\$ <u> </u>
			\$ <u> </u>

4. How much cash do you and your spouse have? \$ 0
 Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Type of account (e.g., checking or savings)	Amount you have	Amount your spouse has
<u>NONE</u>	\$ <u>0</u>	\$ <u> </u>
	\$ <u> </u>	\$ <u> </u>
	\$ <u> </u>	\$ <u> </u>

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home
 Value NONE

Other real estate
 Value NONE

Motor Vehicle #1
 Year, make & model
 Value NONE

Motor Vehicle #2
 Year, make & model
 Value NONE

Other assets
 Description
 Value NONE

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
none	\$ none	\$ N/A
	\$ _____	\$ _____
	\$ _____	\$ _____

7. State the persons who rely on you or your spouse for support. For minor children, list initials instead of names (e.g. "J.S." instead of "John Smith").

Name	Relationship	Age
N/A	N/A	N/A

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

	You	Your spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$ N/A	\$ N/A
Are real estate taxes included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ N/A	\$ N/A
Home maintenance (repairs and upkeep)	\$ N/A	\$ N/A
Food	\$ N/A	\$ N/A
Clothing	\$ N/A	\$ N/A
Laundry and dry-cleaning	\$ N/A	\$ N/A
Medical and dental expenses	\$ N/A	\$ N/A

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ 0	\$ N/A
Recreation, entertainment, newspapers, magazines, etc.	\$ 0	\$ N/A
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ 0	\$ N/A
Life	\$ 0	\$ N/A
Health	\$ 0	\$ N/A
Motor Vehicle	\$ 0	\$ N/A
Other: _____	\$ 0	\$ N/A
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ 0	\$ N/A
Installment payments		
Motor Vehicle	\$ 0	\$ N/A
Credit card(s)	\$ 0	\$ N/A
Department store(s)	\$ 0	\$ N/A
Other: _____	\$ 0	\$ N/A
Alimony, maintenance, and support paid to others	\$ 0	\$ N/A
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ 0	\$ N/A
Other (specify): _____	\$ 0	\$ N/A
Total monthly expenses:	\$ 0	\$ N/A

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

Yes No If yes, describe on an attached sheet.

10. Have you paid – or will you be paying – an attorney any money for services in connection with this case, including the completion of this form? Yes No

If yes, how much? _____

If yes, state the attorney's name, address, and telephone number:

11. Have you paid—or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

Yes No

If yes, how much? _____

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the costs of this case.

plaintiff is presently incarcerated and unemployed

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

Executed on: May 18, 2024

Reginald Jackson
(Signature)

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

REGINALD JACKSON — PETITIONER
(Your Name)

vs.

Warden BICKHAM, ET AL — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals - Fifth (5th) Circuit Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

REGINALD JACKSON
(Your Name)
DIXON CORRECTIONAL INSTITUTE
UNIT-2 / DORM-5
P.O. BOX 788
(Address)

JACKSON, LA. 70748-0788
(City, State, Zip Code)

(225) 634-1200
(Phone Number)

QUESTION(S) PRESENTED
CONSTITUTIONAL QUESTION

The Prison Litigation Reform Act (PLRA) violates the Constitutional interest of equal protection and due process, by way and, through its screening process to dismiss claims (see: *Gomez v. Goord* USA Fed. Sav. Bank, 174 F.3d 794, 795-796 (2d Cir. 1999) ("Holding that dismissal of a pro se complaint under 1915(e)(2)(B) should be done with leave to amend "unless the Court can rule out any possibility," "however unlikely" it might be that an amended complaint would succeed in stating a claim) (Holding under 42 U.S.C. 1997(e)(2) that dismissing a pro se complaint for failure to state a claim, without giving the plaintiff opportunity to amend, is generally error) In *McGore v. Wrigglesworth*, 114 F.3d 601, 612 (6th Cir. 1997) The Court said, "under the Prison Litigation Reform Act, courts have no discretion, in permitting a plaintiff to amend a complaint, to avoid sua sponte dismissal."

Plaintiff, Reginald Jackson, goes on in showing this Honorable U.S. Supreme Court. This Court has held in connection, with the PLRA's Administrative Exhaustion Requirement, "does not explicitly or implicitly justify deviating, from the usual procedural practice, beyond the departures specified by the PLRA itself." (See: *Jones v. Brock*, 549 U.S. 199, 214, 127 S.Ct. 910 (2007))

Plaintiff, R. Jackson, shows this Honorable Court that since a plaintiff's ability to amend the complaint freely "is" part of the "Usual Procedural Practice."

(See: Rule 15 (a)(2), Fed. R. Civ. Pr.) In *Ragins v. Gilmore*, 48 F. Supp 2d 566, 568 (E.D. Va. 1999) "Finally, where a pro se complaint contains a potentially cognizable claim, plaintiff should be allowed to particularize the claim."

Plaintiff, R. Jackson, states the Appeals Court's and District Court's dismissal of his claim was premature at the screening stage, and it was, but not limited to an abuse of discretion. (See: *Russell Hewitt v. R. Henderson*, NO-07-30710 (Mar. 26, 2008))

Plaintiff, R. Jackson, questions the constitutionality of the PLRA, as it presides over and is invoked and enacted upon cases filed in state courts, yet removed to federal courts, by defendants, giving long, broad and protective interest in removing cases to federal courts, and placing excessive undue burdens on pro se plaintiffs, to surpass the PLRA's screening process.

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:

DANIEL LAFLEUR, MD
LAURA ALLEN, RN
JOHN DOE

RELATED CASES

Jackson v. Bickham, No. Unpublished, U.S. Court of Appeals for the Fifth (5th) Circuit, Judgement. (December 11, 2023)

Jackson v. Bickham, USDC No. 3:22-cv-1037 (M.D. La. April 18, 2023)

Jackson v. Bickham, No. USDC No. 3:22-cv-1037 (Magistrate's Report and Recommendation, USDC, E.D. La. March 16, 2023)

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION	

INDEX TO APPENDICES

APPENDIX A - The opinion of the U.S. Fifth (5TH) Circuit Court of Appeals and denial of Certificate of Appealability is attached as unpublished.
(See: Exhibit-13 and also see Attachment for Index), next page

APPENDIX B - The order of the United States Middle District Court of Louisiana dismissing Petition and denying issuance of Certificate of Appealability is attached hereto USDC No. 3:22-cv-1037.
(See: Exhibit-23 and see Also: Attachment For Index), next page

APPENDIX C - The Report and Recommendation, by the U.S. Magistrate Judge in the Middle District of Louisiana is attached hereto USDC No. 3:22-cv-1037.
(See: Exhibit-11 and see Also: Attachment For Index), next page.

ATTACHMENT FOR INDEX TO APPENDIXES

Plaintiff received a Final Order dismissal, from the Fifth (5th) Circuit Court of Appeals, on December 15, 2023, in which the letter was dated December 11, 2023, and the date of receipt made his appeal's filing deadline date done, by March 14, 2024, to the United States Supreme Court.

(see: Exhibit-13, Page 5 of 5, No. 23-30337. Per Curiam)

(see Also: Motion To Reconsider's Exhibits)

Because Jackson has failed to challenge any factual or legal aspect of the district court's disposition of his claims or the certification that his appeal is not taken in good faith, he has abandoned the critical issue of his appeal. (see id) Thus the appeal lacks merit. (See: Howard v. King, 707 F.2d, 215, 220 (5th Cir. 1983))

Accordingly, the Motion For Leave to Proceed In Forma Pauperis is denied and the appeal is dismissed as frivolous:

(See: Baugh, 111 F.3d at 202 n. 24 (5th Cir.) R. 42.2

Before ELROD, HAYNES and DOUGLAS, Circuit Judges

ATTACHMENT FOR INDEX TO APPENDICES

Plaintiff, in regards to the Report and Recommendation (R&R), submitted a Motion to Reconsider that was presented to Chief Judge Shelly D. Dick, U.S. District Court (Middle District) of Louisiana, dated March 14, 2023, and it was ruled on and signed, April 13, 2023.
(see: Exhibit-23)

Accordingly, Jackson's federal claims are DISMISSED WITH PREJUDICE as legally frivolous and/or failure to state a claim under 28 U.S.C. § 1915(e) and/or 1915A, and this case is CLOSED.

Plaintiff received a Magistrate Judge's R&R, from U.S. Magistrate Judge Erin Wilder-Doomes for the U.S. District Court (Middle District) of Louisiana, on March 20, 2023 that is dated and ruled on March 16, 2023.

(see: Exhibit-11, Page 4 of 16)

Based on the screening required by 28 U.S.C. § 1915 A, and the authority given the Court under 28 U.S.C. § 1915 (e), it is recommended that Jackson's claims be dismissed with prejudice for failure to state a claim and that this Court decline to exercise supplemental jurisdiction over potential state law claims.

Jackson filed this suit, on December 16, 2022, against E. Dustin Bickham, Daniel Laffleur, Laura Allen and John Doe (collectively defendants), alleging defendants have been deliberately indifferent to his serious medical needs

ATTACHMENT FOR INDEX TO APPENDIXES

in violation of the Eighth (8TH) Amendment.¹ Jackson seeks declaratory, injunctive, and monetary relief.¹²

"IT IS RECOMMENDED that the Court decline to exercise supplemental jurisdiction over potential state law claims be DISMISSED WITH PREJUDICE as legally frivolous and/or for failure to state a claim under 28 U.S.C. §§ 1915 (e) and/or 1915A, and that this case be CLOSED.

TABLE OF AUTHORITIES CITED

CASES

	PAGE NUMBER
Gomez v. Goord USAA FED. SAV. BANK, 111 F. 3d 794, 795-796 (2d Cir. 1999)	Pg. 1
McGore v. Wrigglesworth, 114 F. 3d 601, 612 (6 th Cir. 1997)	Pgs. 1-2
Jones v. Brock, 549 U.S. 199, 214, 127 S. Ct. 910 2007	Pg. 2
Ragins v. Gilmore, 48 F. Supp 2d 566, 568 (E.D. Va 1999)	Pg. 2
Russell Hewitt v. R. Henderson, No. -07-30770 March 26, 2008	Pg. 3
Hazel-Atlas Glass Co. v. Hartford Empire Co., 1944, 64 S. Ct. 997, 322 U.S. 238, 88 L. Ed. 1250	Pg. 7
Bain v. Mij Prods, 751 F. 3d 642, 646 D.C. Cir. 2014	Pg. 8
Daniels v. Agin, 736 F. 3d 70, 86 (1 st Cir. 2013)	Pg. 8
Jones v. Brock, 549 U.S. 199, 214, 127 S. Ct. 910 2007	Pgs. 14, 15

STATUTES AND RULES

STATUTES

42 U.S.C. 1997 (e)(c)	Pg. 1
42 U.S.C. 1915 (e)(2)	Pg. 1
42 U.S.C. 1983	Pgs. 11, 12
42 U.S.C. 1331 (a)	Pg. 11
28 U.S.C. 1915 (e)	Pg. 11
28 U.S.C. 1915 (A)	Pg. 12
U.S. Constitution Amendment VIII	Pg. 10

RULES

Rule 15 (a)(2)	Pg. 2
Rule 60 (B)(2)	Pg. 8
Rule 60 (B)	Pgs. 8, 9

OTHER

VOLUMES:

ONE: Appendixes

TWO: Report and Recommendation, USDC (Middle) of La., No. 3:22-cv-1037

THREE: Order of Dismissal, USDC (Middle) of La., No. 3:22-cv-1037

Four: Final Order, Fifth (5th) Circuit Court, No. 23-30337

FIVE: 42 U.S.C. § 1983

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 A 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 B to the petition and is

reported at Jackson v. Bickham, 2023 WL 2996728, USDC, La. (April 18, 2023) and,
 has been designated for publication but is not yet reported; or,
 is unpublished.

also at Jackson v. Bickham, 2023 WL 3001117, USDC of La. (Mar. 16, 2023)

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 December 11, 2023.

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

The United States Constitution 14th Amendment (Equal Protection and Due Process)

The law is not a pure science based upon unchanging and universal truths that has evolved slowly, and it will continue to change. American jurists and Supreme Court Justices Oliver Wendell Holmes and Benjamin Cardozo defined law as predictions of the way that a Court will decide specific legal questions. Under common law, the courts have developed by application of stare decisis (to stand by the decisions) but it does not, however, preclude courts from correcting erroneous decisions or from choosing among conflicting precedent and, in an adversary system under judicial law, the parties, not the Court, must initiate and conduct litigation, which is equal protection of the law.

Equal protection of the law means that no person or class of persons shall be denied the same protection of the laws which is enjoyed by other classes in like circumstances in their lives, liberty, property, and their pursuit of happiness. The equal protection clause is essentially a direction that all persons similarly situated ("including prison inmates") should be treated alike, though plaintiff views the PLRA that applies to all inmates as illegal, to that specific class.

The courts, without performing any preliminary investigations, or ordering an injunction disallowed defendants the ability to respond to plaintiff's claims and relinquished plaintiff's chances at refuting (and exposing) any defendants'

responses.

"Denials of equal protection by municipal entity or any other person acting under color of law are actionable under § 1983." (see: *Murrell v. School Dist. No. 1, Denver, Colo.*, 186 F3d 1238 (10th Cir. 1999))

By shielding the defendants, the courts initiated litigants' procedures and processes that extended only between the Court and plaintiff, thus leaving defendants not obligated to answer plaintiff's claims.

"To comport with the Equal Protection clause, the law cannot be administered with an evil eye and an uneven hand." (see: *Eckert v. Town of Silverthorne*, 258 F3d 1147 (10th Cir. 2001))

"A § 1983 class-of-one equal protection claim is stated when a plaintiff alleges that a defendant intentionally treats him or her differently from others who are similarly situated and that no rational basis existed for the difference in treatment." (see: *Mathers v. Wright*, 636 F3d 396 (8th Cir. 2011))

Plaintiff's inquiry, as to his claims, regarding the Prison Litigation Reform Act (PLRA), is absent the aforementioned Justices' propheticness and, also absent refutation between plaintiff and defendants. This practice, by the courts, is a violation of due process. As Justice Cardoza once said, "The inn that shelters, for the night is not the journey's end. The law, like the traveler, must be ready for the morrow. It must have a principle of growth."

Due process of law is law in its regular course of administration through courts of justice. A course of legal proceedings according to those rules and principles which have been established in our systems of jurisprudence for the enforcement and protection of (individuals') private rights. To give such proceedings any validity, there must be a tribunal component by its constitution - that is, by the law of its creation - to pass upon the subject matter of the suit and, if that involves merely a determination of the personal liability of the defendant, he must be brought within its jurisdiction by service of

process within the state, or his voluntary appearance.

(See: Pennoyer v. Neff, 95 U.S. 733, 24 L. Ed. 565)

Plaintiff presents to this U.S. Supreme Court decisional errors of the lower USDC (middle) of Louisiana and Appellate Court (5th Cir.) of Louisiana that are in violations to the United States Constitution, Amendment XIV. In one of the dismissed orders and/or report, by the lower courts, it was mentioned that the decision was based, in part, to judicial cost.

"Substantive due process refers to certain actions that the government may not engage in, no matter how many procedural safeguards it employs."

(See: Aversa v. U.S., 99 F3d 1200 (1st Cir. 1996) (See Also: Rochin v. California, 342 U.S. 165, 96 L. Ed. 183, 72 S.Ct. 205 (1952))

Justice Sotomayor in one of her excerpts, said that "justice is not cheap." Plaintiff was denied any opportunity to amend his initial complaint that was ruled and ordered as a frivolous claim and/or failure to state a claim. This is a breach of justice. The courts barred the plaintiff without giving him the benefit to correct his complaint, especially with him being a layman of the law.

"To punish a person because he has done what the law plainly allows him to do is a due process violation of the most basic sort.

(See: U.S v. Barner, 572 F3d 1239 (11th Cir. 2009))

STATEMENT OF THE CASE

This is a civil rights action under 42 U.S.C. § 1983 brought by a state prisoner who alleges that he is not being given adequate medical care. The district court dismissed plaintiff's action, declining to exercise supplemental jurisdiction over potential state law claims and finding that plaintiff's federal claims be dismissed with prejudice as legally frivolous and/or failure to state a claim under 28 U.S.C. § 1915 (e) and/or § 1915 A, and closed the case.

Plaintiff, Reginald Jackson, in determining the cause of action and culpability in his medical claim of deliberate indifference, is presenting to the Court, via his complaint, "Antecedent Facts" that have led up to and through the events of his sustained and continuous injury. The inquiry into prior injury events is a broad quest at the least. A logician may say that the cause of an event is "the sum of all its antecedents" or that "an act is the cause of all subsequent events to which its influence can be traced."

The law, in fixing responsibility, has adopted more limited and definite standard, and the law also recognizes the relative influence of those causes which contribute to a given result. Below are facts relevant to plaintiff's cause of action. These presented facts are not limited to be all the facts of this complaint, due to a full discovery not yet being disclosed to plaintiff, in concert to, as applied through the relevant purpose of comparative deliberate indifference and irreparable harm.

FACTS

#1 - On or about May 26, 2022, plaintiff generated an ARP (Administrative Remedy Procedure): DCI-2022-508. HCP-RN, Laura Allen, challenged plaintiff's claim regarding a CPAP machine, by inserting in her review that care was offered to the plaintiff, but R. Jackson refuse a scheduled appointment for sleep study. Plaintiff's partial medical records received, from his son (POA), show otherwise, actually, it was an appointment for a Pulmonary Function Test (PFT) instead.

STATEMENT OF THE CASE - continued

Sleep Apnea - a transient suspension of respiration without breathing, while in a natural, periodically recurring physiological state of rest, characterized by relative physical and nervous inactivity, unconsciousness, and lessened responsive to external stimuli:

- cognitive decline, plaintiff stutters in conversations
- memory loss, absence of thoughts and words in plaintiff's mind and conversations
- Plaintiff has difficulty at times recollecting present conversations
- denial of CPAP machine, plaintiff demonstrates unregulated sleep patterns
- sleep disruption during episodes of apneas
- excessive daytime sleepiness and, increased probability of stroke, heart attack and/or death
- plaintiff was diagnosed with sleep apnea at Opelousas General Hospital Sleep Center, on or about Jan. 2020

#2 - As early as May 30, 2022, plaintiff was prescribed a wheelchair, for a fall, and it was returned to the infirmary, on September 09, 2022. On November 03, 2022 to May 02, 2023, a wheelchair was prescribed but plaintiff was never issued one nor was a prescribed wheelchair issued to plaintiff, by Laura Allen, for the dates May 02, 2023 to May 02, 2024. Meniere's disease (Vertigo) - the sensation of dizziness and the feeling that oneself or one's environment is whirling about in a confused, disoriented state of mind.

- "drop attacks" (excessive falls), without an issued prescribed wheelchair
- denied a wheelchair, by HCP-RN Laura Allen, although prescribed by HCP-Doctor, Daniel Lafleur
- plaintiff skipping ACCU-CHECK & some cafeteria meals, no prescribed wheelchair issued to him
- anxiety, concerned about falls without prescribed wheelchair
- depression, for not being x-rayed after falls and bone fractures, due to no prescribed wheelchair issued
- plaintiff was diagnosed with Vertigo by Dr. Celeste Gary at UMC-New Orleans Hospital

#3 - On or about April 10, 2022, plaintiff submitted a correspondence to the medical group at DCI concerning his delicate gut issues of diverticulosis and a prior pancreatitis episode. On May 02, 2022, medical replied, "We do not have a bland diet." Renal Diet - the only diet DCI offers that is bland without the presence of dietician(s)

- denied a Renal diet after plaintiff reported diverticulosis (2/3 of his ascending colon removed prior to incarceration) and pancreatitis during incarceration
- polyp removed at UMCNO during colonoscopy
- colitis - inflammation of the mucous membrane of the colon. colitis was determined during colonoscopy at UMCNO
- DCI, still to this date, has not prescribed plaintiff bland food (absent dietician(s) and Renal diet)

REASONS FOR GRANTING THE PETITION

It is a capital mistake to use theory before actual data is obtained. Insensibly, one begins to twist the facts to suit the theory, instead of theory to suit the facts. The plaintiff's instant case, before this U.S. Supreme Court, is one of thousands of like cases around the country that are dismissed by way of the PLRA and its unconstitutional discretion and application of meaning.

Pro se indigent plaintiffs, who are incarcerated, face an insurmountable level of difficulties in bringing credible cases into the courts. Once an individual has submitted the complaint to the Court, the complaint is denied access into the courts' properties on the grounds of failing to state a claim, even though the claim state exactly the unlawful acts, to which are the definition of a violation of constitutional law. Also, the denial of a claim, by way of the PLRA's screening process, de-obligates defendants from having to respond to the allegations of violating the constitutional rights of a plaintiff. It is well known that many allegations been found, to have significant merit, based on the defendants' answers to the allegations.

Defendants, who are in fact guilty of allegations brought against them, may, can, and will use the PLRA screening process, as a shield to block justified credible complaints, as seen, by how quickly defendants remove claims from state courts to federal courts in the case of:

Gomez v. Goord, USA Fed. Sav. Bank, 171 F.3d 794, 795-96 (2d Cir. 1999). The Court held, "That dismissal of a pro se complaint under 1915 (e)(2)(B) be done with leave to amend." Plaintiff agrees with (Gomez) in this point. The (Gomez) case then goes on to state: "Unless the Court can rule any possibility, however unlikely it might be, that an amended complaint would succeed in stating a claim."

It is noted that the (Gomez) case states, "however unlikely it might be." This statement above shows the intention and meaning of this case law and to the weight that should be placed on the Court, to not dismiss claims without the opportunity to amend.

REASONS FOR GRANTING THE PETITION - continued

Not only is the PLRA being used to oppress and suppress legitimate claims, it is simply contrary to due process and equal protection laws, all while being confusing, as seen here below in case:

Fitzgerald v. First E. Seventh St. Tenants Corp., 221 F.3d 362, 364, n.2 (2d Cir. 2000) The Court stated, "The standard of Review for 1915(e) is unsettled law."

It is here that the plaintiff believes this Supreme Court of the United States of America can clarify and rule. Plaintiff, Reginald Jackson, also asks this Court to consider the country-wide disagreements, on whether a plaintiff should be allowed to amend, via the courts.

Multiple lower courts have stated that pro se plaintiffs should be allowed to amend as it is a core cause in the interest of fairness to a layman pro se litigant, as seen below:

Bazrow v. Scott, 136 F.3d, 1035, 1054 (5th Cir. 1998) (Holding under 42 U.S.C. 1997(c), "That dismissing a pro se complaint for failure to state a claim, without giving the plaintiff an opportunity to amend is generally error. However, it is harmless error to dismiss without prejudice.") (Note: This plaintiff, R. Jackson, was dismissed with prejudice and with no opportunity to amend.) See Also: Ragins v. Gilmore, 48 F. Supp 2d 566-568 (E.D. Va. 1999). "Finally, where a pro se complaint contains a potentially cognizable claim, plaintiff should be allowed to particularize the claim."

These issues have, in part, been brought to the attention of this U.S. Supreme Court but only, in sections and parts, have they been presented in:

Jones v. Brock, U.S. 199, 214, 127 S.Ct. 910 (2007) This U.S. Supreme Court stated, "in connection with the PLRA's Exhaustion Requirement that the screening requirement does not- explicitly or implicitly- justify deviating from the usual procedural practice."

See: Rule 15(a) Fed. R. Civ. Pr. That Rule of Usual Procedural Practice is the Court allowing a plaintiff the opportunity to amend complaint.

The lower Appeals Court issued a ruling to dismiss due to the claim being "frivolous and/or not stating a claim." This ruling being an example of confusing, contrary application of ruling in and upon a specific law. For the Appeals Court to dismiss based on two (2) different basis of law without providing provisions for each basis, is not law at all.

REASONS FOR GRANTING THE PETITION - cont'd

The lower courts dismissed plaintiff's claim based on two (2) prongs of law:

1. Failing to state a claim
2. Frivolous

Each, of these prongs, has a criteria to meet and each has played a burden, so to say, on the reviewing Court. 1.) Failing to state a claim can be reviewed under the lens of, "if all plaintiffs' allegations were believed to be true, would plaintiff's claim actually state a claim to which relief would be given." 2.) Frivolous is to be reviewed through the lens of: #1, is the plaintiff pro se and, #2, did the lower Court inappropriately resolve issues of material fact? Plaintiff satisfies #1, as he is pro se plaintiff. Now, as to #2 of the frivolous prong, and its question of, did the Court resolve issues of material fact? Plaintiff contends how can the Court resolve issues of material fact, without either a physical investigation and/or a response - answer, from defendant(s) to allegations by plaintiff(s).

Plaintiff, Reginald Jackson, shows this Honorable Court, that herein, in this appeal to the United States Supreme Court, that its intervention can clear up the lower courts' interpretation of the PLRA of its provisions and application of dismissal of cases at the screening phase, by implementing and mandating that all pro se, indigent, incarcerated individuals' complaints be given, at the least, one opportunity to amend claims. In doing so, this would alleviate all questions, as to due process and equal rights protection violation claims, as in it, and will provide the propriety of judicial fairness, with the understanding of laymen plaintiffs, who are pro se, indigent and/or incarcerated and facts that create a disability, to which plaintiffs' only relief is opportunities to perfect and amend merit based complaints to the courts.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Reginald Jackson #764746

Date: May 18, 2024

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

REGINALD JACKSON — PETITIONER
(Your Name)

VS.

Warden, E. DUSTIN BICKHAM, ET AL RESPONDENT(S)

PROOF OF SERVICE

I, Reginald Jackson #764746, do swear or declare that on this date, MAY 18, 2024, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and 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 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:

LIZ MURRILL; ATTORNEY GENERAL of LOUISIANA;
1885 N. 3RD ST. WWW.AG.STATE.LA.US
BATON ROUGE, LA. 70802; (225) 326-6465

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

Executed on JULY 05, 2024

Reginald Jackson
(Signature)

United States Court of Appeals for the Fifth Circuit

No. 23-30337
Summary Calendar

United States Court of Appeals
Fifth Circuit
FILED
December 11, 2023

Lyle W. Cayce
Clerk

REGINALD JACKSON,

Plaintiff—Appellant,

versus

E. DUSTIN BICKHAM, *Warden*; DANIEL LAFLEUR; LAURA ALLEN;
JOHN DOE,

Defendants—Appellees.

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 3:22-CV-1037

Before ELROD, HAYNES, and DOUGLAS, *Circuit Judges.*

PER CURIAM:*

Reginald Jackson, Louisiana prisoner # 764746, moves for leave to proceed in forma pauperis (IFP) in this appeal from the dismissal of his civil rights complaint as frivolous and for failure to state a claim for relief. The

* This opinion is not designated for publication. *See 5TH CIR. R. 47.5.*

No. 23-30337

motion is a challenge to the district court's certification that the appeal is not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

Jackson fails to address the district court's reasons for the dismissal of his complaint as frivolous and for failure to state a claim. Pro se briefs are afforded liberal construction. *See Yohey v. Collins*, 985 F.2d 222, 225 (5th Cir. 1993). Nevertheless, when an appellant fails to identify any error in the district court's analysis, it is the same as if the appellant had not appealed the decision. *Brinkmann v. Dall. Cnty. Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987).

Because Jackson has failed to challenge any factual or legal aspect of the district court's disposition of his claims or the certification that his appeal is not taken in good faith, he has abandoned the critical issue of his appeal. *See id.* Thus, the appeal lacks arguable merit. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). Accordingly, the motion for leave to proceed IFP is DENIED, and the appeal is DISMISSED as frivolous. *See Baugh*, 117 F.3d at 202 n.24; 5TH CIR. R. 42.2.

The district court's dismissal of Jackson's complaint and the dismissal of this appeal each count as a strike under 28 U.S.C. § 1915(g). *See Adepegba v. Hammons*, 103 F.3d 383, 388 (5th Cir. 1996), *abrogated in part on other grounds by Coleman v. Tollefson*, 575 U.S. 532, 537 (2015). Jackson is WARNED that if he accumulates three strikes, he will not be permitted to proceed IFP in any civil action or appeal filed while incarcerated or detained in any facility unless he is under imminent danger of serious physical injury. *See* § 1915(g).

**Additional material
from this filing is
available in the
Clerk's Office.**