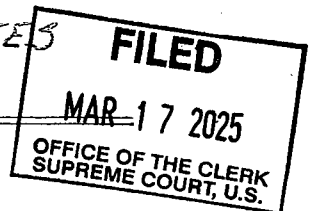


25-5201
No. 25

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



BRANT A. GREEN
PETITIONER,

v.

RICARDO MARTINEZ, WARDEN, AND
THE STATE OF NEW MEXICO, RESPONDENTS.

ON PETITION FOR WRIT OF CERTIORARI
TO THE TENTH CIRCUIT COURT OF APPEALS

PETITION FOR WRIT OF CERTIORARI

BRANT A. GREEN,
PETITIONER, PRO SE.
OCPF EB-68 NMCD #73636
10 MCGREGOR RANGE RD
CHAPARRAL, NM 88081

I. QUESTIONS PRESENTED

1. DID MR. GREEN PROVIDE SUFFICIENT NOTICE TO THE STATE OF NEW MEXICO OF AN EQUAL PROTECTION CLAIM UNDER THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION?
2. DID THE STATE OF NEW MEXICO VIOLATE MR. GREEN'S RIGHT TO EQUAL PROTECTION UNDER THE UNITED STATES CONSTITUTION, AMENDMENT XIV, WHEN IT FAILED TO CREDIT MR. GREEN'S SENTENCE WITH THREE-HUNDRED AND NINETY (390) DAYS OF LUMP SUM AWARDS (LSA)S WHEN OTHER SIMILARLY SITUATED INMATES WERE CREDITED WITH LSA(S) FOR THE SAME ACCOMPLISHMENTS?

II. LIST OF PARTIES

ALL PARTIES APPEAR IN THE CAPTION OF THE CASE ON THE COVER PAGE.

III. TABLE OF CONTENTS

- I. QUESTIONS PRESENTED
- II. LIST OF PARTIES
- III. TABLE OF CONTENTS
- IV. TABLE OF AUTHORITIES
- V. OPINIONS BELOW
- VI. JURISDICTION
- VII. CONSTITUTIONAL PROVISIONS
- VIII. STATEMENT OF CASE
- IX. REASON FOR GRANTING WRIT
- X. CONCLUSION
- XI. APPENDIX

IV. LIST OF AUTHORITIES

CASES

AYALA V. STATE OF NEW MEXICO

BROCKMAN V. STATE OF NEW MEXICO

CITY OF CLEBURNE V. CLEBURNE LIVING CENTER

ENGBAUM V. OR DEPARTMENT OF AGRICULTURE

GREEN V. BOWEN, 1:18-CV-00953-MV-JFR

GREEN V. BOWEN, D-818-CV-2018-00014

HELFFERICH V. FRAWNER

MCGHEE V. STATE OF NEW MEXICO

SLACK V. MCDANIEL

TURNER V. SAFLEY

VILLAGE OF WILLOWBROOK V. OLECH

WHITEHEAD V. STATE OF NEW MEXICO

WILKINSON V. AUSTIN

STATUTES

28 U.S.C. § 1257

28 U.S.C. § 2241

28 U.S.C. § 2254

NMSA § 33-2-34

IV. LIST OF AUTHORITIES (CONT.)

CONSTITUTIONAL PROVISIONS

U.S. CONST. AMEND. IV

U.S. CONST. AMEND. V

U.S. CONST. AMEND. VI

U.S. CONST. AMEND. VIII

U.S. CONST. AMEND. XIV

N.H. CONST. ART. II § 13

N.H. CONST. ART. II § 14

N.H. CONST. ART. II § 15

N.H. CONST. ART. II § 18

V. OPINIONS BELOW

THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEW MEXICO DENIED MR. GREEN'S STATE HABEAS PETITION ON MAY 20, 2020. (CAUSE NO. D-818-CV-2018-00014). (EXHIBIT A, PETITION; EXHIBIT B, DENIAL).

THE NEW MEXICO SUPREME COURT DENIED MR. GREEN'S STATE PETITION FOR WRIT OF CERTIORARI ON 21 AUGUST, 2020. (CAUSE NO. S-1-SC-38351). (EXHIBIT C, STATE PETITION FOR WRIT OF CERTIORARI; EXHIBIT D, DENIAL). (UNPUBLISHED).

THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO DENIED MR. GREEN'S FEDERAL PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 ON 16 MAY, 2024. (D.C. NO. 2:21-CV-00775-RB-GBW). (EXHIBIT F, FINAL JUDGMENT). (UNPUBLISHED). (EXHIBIT E, 28 U.S.C. § 2241 PET.).

THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT DENIED MR. GREEN'S MOTION FOR CERTIFICATE OF APPEALABILITY AND COMBINED OPENING BRIEF ON 16 DECEMBER, 2024. (CAUSE NO. 24-2088). (EXHIBIT G, MOTION...). (EXHIBIT H, DENIAL OF COA).

VI. JURISDICTION

BRANT A. GREEN INVOKES THIS COURT'S JURISDICTION UNDER 28 U.S.C. § 1257, HAVING TIMELY FILED HIS PETITION FOR WRIT OF CERTIORARI WITHIN NINETY (90) DAYS OF 16 DECEMBER, 2024 THE DATE ON WHICH THE TENTH CIRCUIT COURT OF APPEALS DENIED MR. GREEN'S MOTION FOR A COA.

WHEREFORE, ACCORDING TO THE CLERK'S LETTER DATED MARCH 26, 2025 INSTRUCTING PETITIONER TO MAKE CORRECTIONS AS TO FORM, THIS COURT HAS JURISDICTION AS LONG AS "THE PETITION IS SUBMITTED TO THIS OFFICE IN CORRECTED FORM WITHIN 60 DAYS OF THE DATE OF THIS LETTER." IN OTHER WORDS, THE CORRECTED PETITION MUST BE MAILED ON OR BEFORE THE 25TH OF MAY, 2025.

NOTE:

RECAHO MARTINEZ HAS RETIRED. HECTOR RIOS IS THE CURRENT WARDEN OF THE OTERO COUNTY PRISON FACILITY.

VII. CONSTITUTIONAL PROVISIONS

UNITED STATES CONSTITUTION, AMENDMENT XIV, SEC. 1:

ALL PERSONS BORN OR NATURALIZED IN THE UNITED STATES AND SUBJECT TO THE JURISDICTION THEREOF, ARE CITIZENS OF THE UNITED STATES AND OF THE STATE WHEREIN THEY RESIDE. NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH ABRIDGE THE PRIVILEGES OR IMMUNITIES OF CITIZENS OF THE UNITED STATES; NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW; NOR SHALL ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS. (EMPHASIS ADDED).

VIII. STATEMENT OF CASE

THIS CASE IS SIMPLE AND STRAIGHT FORWARD. IN TRUTH THIS CASE NEVER SHOULD HAVE REACHED THE UNITED STATES SUPREME COURT. ERROR AND OVERSIGHT COMMITTED BY THE REVIEWING COURTS HAVE LED US TO THIS UNFORTUNATE TIME AND PLACE. BUT FOR THIS HONORABLE COURT, THE CONSTITUTION OF THE UNITED STATES WOULD HAVE BEEN RENDERED MOOT AND SUPERFLUOUS LONG AGO.

MR. GREEN, A DISABLED VETERAN OF THE UNITED STATES NAVY, HAS BEEN IN THE CUSTODY OF THE NEW MEXICO CORRECTIONS DEPARTMENT (NMCD) SINCE OCTOBER 2011. WHILE INCARCERATED MR. GREEN HAS EARNED FOUR (4) ASSOCIATE'S DEGREES FROM MESALANDS COMMUNITY COLLEGE: (1) ASSOCIATE'S OF APPLIED SCIENCE IN AUTOMOTIVE TECHNOLOGY (CONFIRMED 09/02/2014); (2) ASSOCIATE'S OF ARTS IN LIBERAL ARTS/UNIVERSITY STUDIES (CONFIRMED 09/14/2014); (3) ASSOCIATES OF APPLIED SCIENCE IN BUSINESS ADMINISTRATION/GENERAL BUSINESS (CONFIRMED 06/18/2015); (4) ASSOCIATES OF APPLIED SCIENCE IN WIND ENERGY TECHNOLOGY (CONFIRMED 05/05/2017), AND ONE (1) CERTIFICATE IN COMPUTER MAINTENANCE (CONFIRMED 09/04/2014). (EXHIBIT I).

MR. GREEN REQUESTED LUMP SUM AWARDS (LSA(S)) FOR EACH DEGREE AND THE CERTIFICATE PURSUANT TO NMSA § 33-2-34 ELIGIBILITY FOR EARNED MERITORIOUS DEDUCTIONS (EMD). NMCD DENIED MR. GREEN'S REQUEST ON THE GROUNDS THAT THE NMCD POLICY IN EFFECT AT THE TIME DID NOT PERMIT MULTIPLE LSA(S) FOR EARNING MULTIPLE ASSOCIATE'S DEGREES.

MR. GREEN FILED A STATE HABEAS PETITION IN THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEW MEXICO ON FEBRUARY 09, 2018. WHEREIN, MR. GREEN ALLEGED SEVERAL GROUNDS FOR GRANTING RELIEF. HOWEVER, FOR THE PURPOSES OF THIS PETITION FOR WRIT OF CERTIORARI, HE ASKS THIS COURT TO ONLY CONSIDER HIS EQUAL PROTECTION CLAIM UNDER THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION.

THE STATE DISTRICT COURT FAILED TO ADDRESS THE FOURTEENTH AMENDMENT EQUAL PROTECTION CLAIM. MR. GREEN'S PRO SE PETITION FOR WRIT OF HABEAS CORPUS FILED IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEW MEXICO STATED ISSUE 1:

THE PETITIONER PRESENTS THAT THE NEW MEXICO CORRECTIONS DEPARTMENT (NMCD) ILLICITLY WITHHELD

THREE - HUNDRED AND NINETY (390) DAYS OF LUMP SUM AWARDS (LSA) CONTRARY TO NMSA § 33-2-34 ELIGIBILITY FOR EARNED MERITORIALS DEDUCTIONS; AND CO-082800/801 LUMP SUM AWARDS (REV. 09/29/10); AND IN VIOLATION OF THE NEW MEXICO CONSTITUTION AND THE FIFTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION. (EXHIBIT A).

THE LANGUAGE USED BY MR. GREEN TO STATE ISSUE ONE CLEARLY INVOKES HIS CONSTITUTIONAL RIGHTS GUARANTEED UNDER THE FOURTEENTH AMENDMENT. FURTHERMORE, WITHIN THE PETITION ITSELF MR. GREEN SPECIFICALLY ARTICULATED AN EQUAL PROTECTION CLAIM:

"THE DENIALS OF HIS EARNED LSA(S) HAS BEEN RESOLVED EXCEPTIO RES JUDICATAE, I.E., MONTE WHITEHEAD (D-1215-CV-2014-00109); JA' WAYNE HELFFERICH (D-1215-CV-2014-00179); AND ANTRIAN MCGHEE (D-818-CV-2016-00037). Id. AT 10, 11. IN OTHER WORDS, THE ILLEGITIMACY OF THE DENIALS HAD ALREADY BEEN DECIDED IN **SIMILAR** CASES WITH ESSENTIALLY THE SAME ARGUMENTS. SINCE THE INDIVIDUALS RECEIVED ADDITIONAL LSA(S) FOR EARNING SUBSEQUENT ASSOCIATES DEGREES, AS A MATTER OF LAW, THE ISSUE HAD ALREADY BEEN SETTLED. THE STATE HABEAS PETITION CLEARLY STATES, "[], THE DEPRIVATION

CREATES A VIOLATION OF THE **FOURTEENTH** AMENDMENT OF THE UNITED STATES CONSTITUTION AS WELL AS ARTICLE 11, SECTION 18 OF NEW MEXICO'S CONSTITUTION. WHERE OTHER PARTICIPANTS HAVE BEEN CREDITED THE PROMULGATED LSA(S) FOR MEETING THE SAME REQUIREMENTS AS PETITIONER CLEARLY VIOLATES THE **EQUAL PROTECTION CLAUSE.**" *Id.*, AT 13, 40; AND DOC. 4, AT 13, 40 (SAME).

FURTHERMORE, THE STATE PETITION ALSO STATED, "[T]HE PETITIONER REITERATES THAT THE CORRECTIONS DEPARTMENT'S PRACTICE OF DENYING LSA(S) UNDER THE FAUX OF LEGITIMACY IS A VIOLATION OF DUE PROCESS AND **EQUAL PROTECTION** GUARANTEES UNDER BOTH THE STATE AND FEDERAL CONSTITUTIONS, AS WELL AS BEING CONTRARY TO NEW MEXICO LAW." *Id.* AT 17.

THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEW MEXICO FAILED TO ADDRESS THE ISSUE OF SIMILARLY SITUATED INMATES AND EQUAL PROTECTION. HOWEVER, MR. GREEN BROUGHT THE DISTRICT COURT'S FAILURE TO THE ATTENTION OF THE SUPREME COURT OF THE STATE OF NEW MEXICO IN HIS PETITION FOR WRIT OF CERTIORARI BY WRITING:

CURIOUSLY, THE DISTRICT COURT OMITS A HIGHLY RELEVANT FACT FROM ITS CALCULUS. THAT BEING, INMATES HAVE RECEIVED MULTIPLE LSA(S) FOR EARNING MULTIPLE ASSOCIATE'S DEGREES BOTH PRIOR TO AND AFTER THE AUGUST 14, 2013 REVISION OF NIMSA 1978, § 33-2-34. (sic) [CO-082800/801]. HOWEVER, THE REASONING RELIED UPON BY THE VARIOUS DISTRICT COURTS HAS BEEN NOTHING LESS THAN AN INCONSISTENT BAG OF HODGE-PODGE. E.g., AYALA V. STATE, D-504-CV-2017-00889 (EXHIBIT J); BROCKERMAN V. STATE, D-818-CV-2017-00042 (EXHIBIT K); MCGHEE V. STATE, D-818-CV-2016-00037 (EXHIBIT L); HELFFERICH V. FRAWNER, D-1215-CV-2014-00170 (EXHIBIT M); WHITEHEAD V. STATE, D-1215-CV-2014-00109 (EXHIBIT N). *Id.*, AT 16-17. SEE ALSO, NIMSC CERT. PET. NO. 38351, AT 4,5.

THESE CASES ARE DISPOSITIVE IN THE MATTER CURRENTLY BEFORE THE COURT. FIRST, THESE CASES CLEARLY DEMONSTRATE THE INCONSISTENT MANNER IN WHICH SIMILAR CASES HAVE BEEN DECIDED. . . . SECONDLY, THEY DEMONSTRATE THE AUTHORITY NATURE OF THE LAW PREVAILING OVER NMCD POLICY. IN THAT, IF NOT AUTHORIZED UNDER THE LAW, NO ONE AT ANY TIME WOULD HAVE BEEN AWARDED MULTIPLE LSA(S) FOR EARNING MULTIPLE DEGREES. THIRDLY, THEY

REVEAL THAT **OTHER INMATES** HAVE IN FACT BEEN AWARDED MULTIPLE LSA(S) FOR EARNING MULTIPLE DEGREES AND THEREBY ESTABLISHING A MODE IN WHICH A PARTICULAR THING SHOULD BE DONE.⁹⁹ Id. AT 5. (EXHIBIT C).

THE STATE PETITION FOR WRIT OF CERTIORARI MADE CLEAR THE CONSTITUTIONAL BASIS FOR GRANTING THE PETITION:

THE DECISION OF THE DISTRICT COURT ON MY PETITION FOR WRIT OF HABEAS CORPUS, FILED PRO SE, RAISES SIGNIFICANT QUESTION OF LAW UNDER STATE AND FEDERAL CONSTITUTIONS. WHETHER THE ERRORS BELOW DEPRIVED PETITIONER'S RIGHTS GUARANTEED BY THE FOURTH, FIFTH, SIXTH, EIGHTH, AND **FOURTEENTH** AMENDMENTS AND BY NEW MEXICO CONSTITUTION, ART. 11. §§ 13, 14, 15, AND 18.

THE SUPREME COURT OF THE STATE OF NEW MEXICO SUMMARILY DISMISSED MR. GREEN'S PETITION FOR WRIT OF CERTIORARI WITHOUT COMMENT. THESE EXCERPTS FROM THE STATE HABEAS PETITION AND THE STATE CERTIORARI PETITION TO THE NEW MEXICO SUPREME COURT UNQUESTIONABLY PRESENT SIMILARLY SITUATED INMATES AND EXPLICITLY BRINGS TO THE

ATTENTION OF THE COURT. THE CRUX OF MR. GREEN'S FOURTEENTH AMENDMENT CLAIM, EQUAL PROTECTION. THE SIGNIFICANCE OF THE OTHER SIMILARLY SITUATED INMATES THAT HAD RECEIVED MULTIPLE LSAs WAS CLEARLY AND EMPHATICALLY PRESENTED TO BOTH THE EIGHTH JUDICIAL DISTRICT COURT AND THE SUPREME COURT OF THE STATE OF NEW MEXICO. THE CLAIM WAS SUBSTANTIALLY BUTTRESSED BY EXHIBITS OF COURT DOCUMENTS AWARDED THE ADDITIONAL LSA(S). THUS, MR. GREEN'S EQUAL PROTECTION CLAIM UNDER THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION WAS CLEARLY ARTICULATED, SUPPORTED, AND PRESENTED. THUS, THE FOURTEENTH AMENDMENT EQUAL PROTECTION CLAIM WAS FULLY EXHAUSTED.

THE FEDERAL DISTRICT COURT'S CHIEF UNITED STATES MAGISTRATE JUDGE'S (HON. GREGORY B. WORMUTH) (MJ) RECOMMENDATION TO DENY RELIEF RESTED IN PART ON THE CONCLUSION THAT, "IT IS WELL ACCEPTED THAT THE EMPA IS DISCRETIONARY AND DOES NOT ENTITLE PRISONERS TO GOOD TIME CREDIT." PF & RD (DOC. 39), AT 18. (EXHIBIT 5). FALLACIOUSLY, HE ALSO CONCLUDED THAT, "IN HIS [GREEN'S] REPLY, PETITIONER ATTEMPTS TO BRING AN EQUAL PROTECTION CLAIM, FOR THE FIRST TIME, BY ARGUING THAT HE WAS SIMILARLY SITUATED TO OTHER INMATES WHO WERE

TREATED DIFFERENTLY THAN HIM - I.E., PRIOR TO THE AUGUST 2013 REVISION OF NMCD POLICY CD-082801(B)(3)(H), OTHER INMATES RECEIVED MORE THAN ONE LUMP SUM MERITORIOUS DEDUCTION FOR RECEIVING MULTIPLE ASSOCIATE'S DEGREES. SEE DOC. 36 AT 13-17. THIS IS A NEWLY RAISED ARGUMENT THAT REMAINS UNEXHAUSTED. THE COURT WILL NOT ADDRESS ARGUMENTS RAISED FOR THE FIRST TIME IN A REPLY."

SENIOR DISTRICT JUDGE ROBERT C. BRACK OVERRAULED MR. GREEN'S OBJECTIONS AND ADOPTED THE PF & RD IN FULL. DOC. 45. THE FINAL JUDGMENT WAS ENTERED 16 MAY, 2024. DOC. 46.

THE TENTH CIRCUIT COURT OF APPEALS, REITERATING THE FEDERAL COURT'S FINDINGS, DECLINED TO ISSUE A COA. THE COURT STATED:

MR. GREEN ARGUES THAT "OTHER SIMILARLY SITUATED INMATES" IN THE CUSTODY OF NMCD "RECEIVED MULTIPLE" MERITORIOUS DEDUCTIONS "FOR EARNING MULTIPLE DEGREES." PET. OPENING BR. AND APP. FOR COA AT 13. HE IN TURN ARGUES THAT INMATES, SUCH AS HIMSELF, "WHO MET THE SAME REQUISITES" AFTER AUGUST 2013 "DID NOT RECEIVE THE ADDITIONAL"

MERITORIOUS DEDUCTIONS AND "WERE NOT TREATED EQUALLY UNDER THE LAW." *Id.* AT 14-15.

WE CONCLUDE THAT MR. GREEN IS NOT ENTITLED TO A COA ON THIS EQUAL PROTECTION ARGUMENT. THE MT AND DISTRICT COURT DECLINED TO REACH THE MERITS OF THIS ARGUMENT BECAUSE MR. GREEN RAISED IT FOR THE FIRST TIME IN HIS REPLY TO THE STATE'S ANSWER AND BECAUSE HE FAILED TO RAISE THE ARGUMENT IN HIS STATE HABEAS PETITION. *R. VOL. IV AT 10.17.8* ("THIS IS A NEWLY RAISED ARGUMENT IN THAT REMAINS UNEXHAUSTED. THE COURT WILL NOT ADDRESS ARGUMENTS RAISED FOR THE FIRST TIME IN A REPLY."). WE ARE NOT PERSUADED REASONABLE JURISTS COULD DEBATE WHETHER MR. GREEN STATED A VALID EQUAL PROTECTION CLAIM. MR. GREEN HAS PRESENTED NO EVIDENCE TO ESTABLISH THERE WERE OTHER "SIMILARLY SITUATED" INMATES WHO RECEIVED MULTIPLE MERITORIOUS DEDUCTIONS FOR EARNING MULTIPLE ASSOCIATE'S DEGREES. AND THE NEW MEXICO STATE COURTS CONCLUDED AS A MATTER OF LAW THAT THE EMMA, WHICH EFFECTIVELY GOVERNS NUCLEAR POLICY, DOES NOT AUTHORIZE MULTIPLE MERITORIOUS DEDUCTIONS WHERE, AS HERE, AN INMATE HAS EARNED MULTIPLE ASSOCIATES DEGREES.

IT IS NOT OUR ROLE TO REEXAMINE THAT
INTERPRETATION OF NEW MEXICO LAW.

THE TENTH CIRCUIT'S REASONS FOR NOT ISSUING A COA IS
BASED ON A NUMBER OF FALSE PRETENSES. THE MOST
CRUCIAL ASPECT OF THE TENTH CIRCUIT'S DECISION RESTS ON
THE CONCLUSION THAT MR. GREEN HAD FAILED TO EXHAUST
HIS EQUAL PROTECTION CLAIM UNDER THE FOURTEENTH
AMENDMENT. THE STATE COURT RECORD IRREFUTABLY
REVEALS THAT MR. GREEN DID INDEED RAISE THE ISSUE OF
SIMILARLY SITUATED INMATES AND AN EQUAL PROTECTION
CLAIM IN HIS STATE PETITION FOR WRIT OF HABEAS CORPUS
AS WELL AS IN HIS PETITION FOR WRIT OF CERTIORARI TO
THE NEW MEXICO SUPREME COURT.

NEXT, THE TENTH CIRCUIT ERRS IN ITS CONCLUSION THAT
MR. GREEN HAS PRESENTED NO EVIDENCE TO ESTABLISH
THERE WERE OTHER "SIMILARLY SITUATED" INMATES WHO
RECEIVED MULTIPLE MERITORIOUS DEDUCTIONS FOR
EARNING MULTIPLE ASSOCIATE'S DEGREES. AS NOTED
ABOVE, MR. GREEN PRESENTED STATE DISTRICT COURT
RECORDS OF FIVE OTHER INMATES WHO FILED STATE
HABEAS PETITIONS CHALLENGES NMCD'S DENIAL OF
SUBSEQUENT LSA(S) FOR EARNING MULTIPLE
ASSOCIATE'S DEGREES. IN THOSE CASES, MOST OF THE

INMATES WERE COURT ORDERED TO RECEIVE THE LSA(S) THAT HAD BEEN ILLEGALLY WITHHELD. THESE ARE INCLUDED AS PART OF THE RECORD, AND ARE INCLUDED AGAIN HERE BY REFERENCE AND AS ATTACHMENTS.

THE LAST ERROR MADE BY THE TENTH CIRCUIT COURT OF APPEALS STEMS FROM THE EARNEST'S CONCLUSION OF THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEW MEXICO. THE TENTH CIRCUIT REITERATED THAT THE NEW MEXICO STATE COURTS CONCLUDED AS A MATTER OF LAW THAT THE ENDA, WHICH EFFECTIVELY GOVERNS NMCD POLICY, DOES NOT AUTHORIZE MULTIPLE MERITORIOUS DEDUCTIONS WHERE, AS HERE, AN INMATE HAS EARNED MULTIPLE ASSOCIATE'S DEGREES. THIS FACT IS PLAINLY DEMONSTRATED THROUGH NMCD'S ORIGINAL INTERPRETATION OF THE ENDA AND ITS IMPLEMENTATION OF THE LUMP SUM POLICY THAT CLEARLY ALLOWED INMATES TO "RECEIVE MORE THAN ONE (1) LSA FOR EARNING AN ASSOCIATE'S DEGREE."⁹⁹ NMCD POLICY CD-082801(2)(3)(H) (REV. 09/29/10). WHATSMORE, THE RESPONDENTS NEVER ASSERTED THAT INMATES WERE NOT AWARDED MULTIPLE LSA(S) PRIOR TO AUGUST 14, 2003. TO BE SURE, THE EVIDENCE CONCRETELY DEMONSTRATES THAT INMATES HAVE IN FACT RECEIVED MULTIPLE LSA(S) FOR EARNING MULTIPLE ASSOCIATE'S DEGREES.

WITHIN THE STATE DISTRICT COURT'S DECISION & ORDER DENYING PETITION FOR WRIT OF HABEAS CORPUS AND VACATING MAY 21, 2020 STATUS HEARING THE STATE DISTRICT COURT WRITES:

FIRST, THE POLICY CO-082801 (B)(3)(H) IN EFFECT AT THE TIME THAT MR. GREEN BECAME INCARCERATED AND STARTED TAKING CLASSES DID NOT ALLOW FOR AN LSA TO BE AWARDED FOR SEQUENTIAL ASSOCIATE'S DEGREES EARNED BY A SINGLE INMATE: "SEQUENTIAL ASSOCIATE'S DEGREES ARE NOT ELIGIBLE FOR AN LSA."

THE COURT DETERMINED THAT THE POLICY "IN EFFECT . . . DID NOT ALLOW FOR AN LSA TO BE AWARDED FOR SEQUENTIAL ASSOCIATE'S DEGREES EARNED BY A SINGLE INMATE: . . ." THE STATE DISTRICT COURT DID NOT CONCLUDE THAT THE POLICY HAD NEVER ALLOWED FOR MULTIPLE LSA(S) TO BE EARNED FOR MULTIPLE ASSOCIATE'S DEGREES. HOWEVER, THE CONCLUSION ITSELF IS IRRELEVANT BECAUSE MR. GREEN'S EQUAL PROTECTION UNDER THE LAW CLAIM ARISES FROM THE PROTECTIONS OF THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION, NOT FROM NMCD POLICY.

BUT FOR THE SAKE OF ARGUMENT, MR. GREEN WAS

CONVICTED ON, AND HIS INCARCERATION BEGAN ON, FEBRUARY 16, 2011. (EXHIBIT D). THE NMCD POLICY IN EFFECT ON FEBRUARY 16, 2011 WAS CD-082801 (REV. 09/29/2010). AS THE STATE COURT NOTED, THE OPERABLE PARAGRAPH, (B)(3)(H), OF THE APPLICABLE REVISION STATES:

AN INMATE MAY RECEIVE MORE THAN ONE (1) LSA FOR EARNING AN ASSOCIATE'S DEGREE; BACHELOR'S DEGREE OR GRADUATE QUALIFICATION PROVIDED THAT THE LSA RECOMMENDATION DEMONSTRATES THAT THE REQUIREMENTS FOR EARNING THE SUBSEQUENT DEGREES WERE NOT SUBSTANTIALLY THE SAME AS THOSE THAT WERE REQUIRED FOR THE FIRST LSA. (EXHIBIT P).

THE STATE DISTRICT COURT ALSO REFERENCED WHEN MR. GREEN "STARTED TAKING CLASSES." THE RECORD DEMONSTRATES THAT MR. GREEN BEGAN TAKING CLASSES AS AN NMCD INMATE IN THE SUMMER OF 2012. (EXHIBIT Q). IN WHICH CASE, THE APPLICABLE NMCD POLICY WAS CD-082801 (REV. 03/30/2012). AT THAT TIME, PARAGRAPH (B)(3)(H) STATED:

AN INMATE MAY RECEIVE MORE THAN ONE (1) LSA FOR EARNING AN ASSOCIATE'S DEGREE SEQUENTIAL

ASSOCIATE'S DEGREES ARE NOT ELIGIBLE FOR AN LSA; BACHELOR'S DEGREE OR GRADUATE QUALIFICATION PROVIDED THAT THE LSA RECOMMENDATION DEMONSTRATES THAT THE REQUIREMENT FOR EARNING THE SUBSEQUENT DEGREES WERE NOT SUBSTANTIALLY THE SAME AS THOSE THAT WERE REQUIRED FOR THE FIRST LSA.

THERE IS NO QUESTION THAT NMCD POLICY IN PLACE WHEN MR. GREEN BEGAN HIS TERM OF INCARCERATION AND BEGAN TAKING CLASSES CLEARLY STATED, "AN INMATE MAY RECEIVE MORE THAN ONE (1) LSA FOR EARNING AN ASSOCIATE'S DEGREE." THE EMMA DOES NOT LIMIT THE NUMBER OF LSA(S) FOR ASSOCIATE'S DEGREES AN INMATE MAY RECEIVE. FACT IS, EVERY VERSION OF CO-082801 PERMITTED MULTIPLE LSA(S) FOR MULTIPLE DEGREES UNTIL THE AUGUST 14, 2013 REVISION.

THEREFORE, THE TENTH CIRCUIT'S DETERMINATIONS WERE NOT BASED ON ACCURATE INFORMATION. IT MUST BE CONSIDERED, BASED ON THE ACTUAL TRUTHS AND THE FACTS CONTAINED WITHIN THE RECORD, THAT HAD THE TENTH CIRCUIT BEEN CORRECTLY INFORMED IT WOULD HAVE ISSUED A COA ON THE GROUNDS THAT MR. GREEN WAS DENIED EQUAL PROTECTION UNDER THE LAW. MR. GREEN CONTENDS THAT THIS COURT SHOULD FIND THAT THE TENTH CIRCUIT'S

DENIAL OF ITS CWA DOES NOT SATISFY THE FOURTEENTH AMENDMENT'S CONSTITUTIONAL GUARANTEES OR COMPORT WITH THIS COURT'S STANDARD OF JUSTICE.

THE UNACD CONTINUES TO AWARD MULTIPLE LSA(S) FOR EARNING MULTIPLE ASSOCIATE'S DEGREES. RECENTLY, INMATES MATTHEW COX (UNACD # 78102) AND RALPH MAESTAS (UNACD # 76648) BOTH RECEIVED A SECOND LSA FOR EARNING A SECOND ASSOCIATE'S DEGREE.

MR. COX RECEIVED HIS FIRST 120-DAY LSA FOR EARNING AN ASSOCIATE'S DEGREE IN THEOLOGY ON JUNE 04, 2019. HE WAS SUBSEQUENTLY AWARDED A SECOND 120-DAY LSA FOR EARNING AN ASSOCIATE'S OF ARTS ON DECEMBER 20, 2024. (EXHIBIT R).

MR. MAESTAS EARNED HIS FIRST 120-DAY LSA FOR EARNING AN ASSOCIATE'S DEGREE IN THEOLOGY. (CONFIRMED APRIL 15, 2019). HE EARNED AN ASSOCIATE'S OF ARTS DEGREE, HIS SECOND DEGREE, ON JUNE 24, 2024. FOR WHICH, HE RECEIVED HIS SECOND 120-DAY LSA.

UNFORTUNATELY, MR. GREEN IS UNABLE TO PROVIDE A COPY OF MR. MAESTAS' GOOD TIME FIGURING SHEET. THIS INFORMATION IS TRUE AND ACCURATE BASED ON MR. GREEN'S CONVERSATION WITH MR. MAESTAS.

IX. REASON FOR GRANTING WRIT

THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION GUARANTEES CITIZENS OF THIS COUNTRY EQUAL PROTECTION UNDER THE LAW. THIS IS NOT A FANTASY; IT IS A FACT KNOWN TO ALL. THE LOWER COURTS ERRONEOUSLY AND QUITE ASTONISHINGLY ASSERT THAT A FOURTEENTH AMENDMENT EQUAL PROTECTION CLAIM HAS NOT BEEN EXHAUSTED AT THE STATE LEVEL. THIS COURT NEED ONLY TO READ P.13 OF THE STATE PETITION FOR WRIT OF HABEAS CORPUS.

"[T]HE DEPRIVATION CREATES A VIOLATION OF THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION (EQUAL PROTECTION CLAUSE - INCLUDED IN ORIGINAL WORDING) AS WELL AS ARTICLE II, SECTION 18 OF NEW MEXICO'S CONSTITUTION. WHERE OTHER PARTICIPANTS HAVE BEEN CREDITED THE PROMULGATED LSA(S) FOR MEETING THE SAME REQUIREMENTS AS PETITIONER CLEARLY VIOLATES THE EQUAL PROTECTION CLAUSE."

AND, P.17;

"[T]HE PETITIONER REITERATES (SIC) THAT THE CORRECTIONS DEPARTMENT'S PRACTICE OF DENYING LSA(S) UNDER THE FAUX OF LEGITIMACY IS A VIOLATION OF DUE

PROCESS AND THE EQUAL PROTECTION GUARANTEES
UNDER BOTH STATE AND FEDERAL CONSTITUTIONS."

MR. GREEN ASSERTS THAT THIS COURT IS MANDATED BY
LAW TO ENFORCE THE CONSTITUTION OF THE UNITED STATES.
MR. GREEN, A DISABLED VETERAN, SERVED HIS COUNTRY
PROTECTING YOUR CONSTITUTIONAL RIGHTS. DON'T YOU
AND THIS COUNTRY OWE MR. GREEN THE SAME DUTY AND
RESPECT?

BASED ON THE IRREFUTABLE FACTS, THIS COURT SHOULD
ABSOLUTELY GRANT MR. GREEN'S PETITION FOR WRIT OF
CERTIORARI.

THE FOLLOWING PAGES OUTLINE FOR THIS COURT'S
CONSIDERATION HOW THE MISTAKES OF THE LOWER
COURTS WERE PERPETUATED; BRING THIS CASE AT BAR.

THE PRESUMPTION OF CORRECTNESS IS NOT ALWAYS CORRECT. IN THIS CASE, THE ERRONEOUS FINDINGS OF THE LOWER COURTS HAVE BEEN BLINDLY PERPETUATED. THUS, THE BASIS OF THE TENTH CIRCUIT'S DENIAL OF ITS COA WERE LEGALLY AND FACTUALLY WRONG. THE COURT WAS MISLED AND MISINFORMED DUE TO THE FAILURES OF THE COURT OF ORIGINAL JURISDICTION.

A COA WILL ISSUE "ONLY IF THE APPLICANT HAS MADE A SUBSTANTIAL SHOWING OF THE DENIAL OF A CONSTITUTIONAL RIGHT," WHICH IS ACCOMPLISHED WHEN AN APPLICANT SHOWS "THAT REASONABLE JURIST COULD DEBATE WHETHER (OR, FOR THAT MATTER, AGREE THAT) THE PETITION SHOULD HAVE BEEN RESOLVED IN A DIFFERENT MANNER OR THAT THE ISSUES PRESENTED WERE ADEQUATE ENCOURAGEMENT TO PROCEED FURTHER." SLACK V. McDAWEL, 529 U.S. 473, 484, 120 S. Ct. 1595, 146 L.Ed.2d 542 (2000).

MR. GREEN HAS DEMONSTRATED THAT THE TENTH CIRCUIT'S DENIAL OF A COA RESTED UPON FALLACIES PERPETRATED BY THE ERRONEOUS FINDINGS OF THE LOWER COURTS.

THERE ARE TWO QUESTIONS FOR THIS COURT TO CONSIDER,

(1) DID MR. GREEN EXHAUST HIS FOURTEENTH AMENDMENT CLAIM AT THE STATE LEVEL, AND (2) WAS MR. GREEN

DENIED EQUAL PROTECTION UNDER THE LAW?

MR. GREEN ANSWERED THE FIRST QUESTION BY PROVIDING SPECIFIC REFERENCES TO THE RECORD THAT DEMONSTRATES THAT HE BROUGHT TO THE STATE COURTS ATTENTION A LEGITIMATE FOURTEENTH AMENDMENT CLAIM IN BOTH HIS STATE PETITION FOR WRIT OF HABEAS CORPUS AND IN HIS PETITION FOR WRIT OF CERTIORARI BY DESCRIBING HOW HE HAD NOT RECEIVED THE SAME TREATMENT UNDER THE LAW AS SEVERAL OTHER INMATES.

AT THE SAME TIME, MR. GREEN ANSWERS THE SECOND QUESTION BY INCORPORATING STATE COURT DOCUMENTS THAT SUBSTANTIATE HIS CLAIM THAT OTHER INMATES HAVE RECEIVED MULTIPLE LSA(S) FOR EARNING MULTIPLE ASSOCIATE'S DEGREES. IMPARTIALLY, CONTRARY TO THE COURT'S DETERMINATION, THESE DOCUMENTS ARE THE VERY EVIDENCE THE COURT CLAIMS MR. GREEN FAILED TO PROVIDE. THE EVIDENCE HAS BEEN PART OF THE RECORD FROM THE BEGINNING.

THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION GUARANTEES THAT NO STATE SHALL DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS. IN THIS CASE THE APPLICABLE LAW IS NMSA § 33-2-34, ELIGIBILITY FOR EARNED MERITORIOUS DEDUCTIONS. THIS STATUTE

PROVIDES GUIDELINES FOR INMATES TO EARN DEDUCTIONS FROM THEIR BASIC SENTENCE AND HAS NOT BEEN REVISED. UNDER THIS LAW, MR. GREEN ASSERTS THAT HE IS ENTITLED TO THE SAME TREATMENT AS OTHER NMCD INMATES. ACCORDINGLY, NUMEROUS INMATES HAVE RECEIVED MULTIPLE LSA(S) FOR EARNING MULTIPLE ASSOCIATE'S DEGREES. NMCD HAS NOT GIVEN MR. GREEN THE SAME OPPORTUNITY TO RECEIVE THE SAME LSA(S) FOR FULFILLING THE SAME CRITERIA. THE UNEQUAL TREATMENT IMPLICATES A CLEAR VIOLATION OF THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION. THE EVIDENCE PROVIDED BY MR. GREEN DEMONSTRATES THE FOLLOWING:

- JUNE 09, 2015 ORDER, FILED IN THE 12TH JUDICIAL DISTRICT COURT OF THE STATE OF NEW MEXICO IN CAUSE NUMBER D-1215-CV-2014-00179, HELEFERICH V. FRANKER, AWARDED A 120-DAY LSA FOR EARNING A SECOND ASSOCIATE'S DEGREE. (EDC. 31-4, PP. 413-14).

- JULY 30, 2015 STIPULATED ORDER ON PETITION FOR WRIT OF HABEAS CORPUS, FILED IN THE 12TH JUDICIAL DISTRICT COURT OF THE STATE OF NEW MEXICO IN CAUSE NUMBER D-1215-CV-2014-00109, WHITENHEAD V. STATE, AWARDED A

120-DAY LSA FOR AN ASSOCIATE'S DEGREE IN
BUSINESS ADMINISTRATION CONFIRMED MAY 19,
2013. (DOC. 31-4, P. 411-12).

MARCH 14, 2018 STIPULATED ORDER ON PETITION
FOR WRIT OF HABEAS CORPUS, FILED IN THE
BTH JUDICIAL DISTRICT COURT OF THE STATE OF

NEW MEXICO IN CAUSE NUMBER D-818-CV-
2016-00037, ALGHEE V. STATE,

a. 60 DAYS FOR AN AAS IN AUTOMOTIVE TECHNOLOGY
(PARTIAL LSA AS PER AGREEMENT).

b. 120 DAYS FOR AN AAS IN BUSINESS ADMINISTRATION
c. 120 DAYS FOR AN AA IN LIBERAL ARTS, CONC.
31-4, P. 406-07).

OCTOBER 3, 2019 *AMENDED* STIPULATED ORDER ON

PETITION FOR WRIT OF HABEAS CORPUS, FILED IN
THE BTH JUDICIAL DISTRICT COURT OF THE STATE
OF NEW MEXICO IN CAUSE NUMBER D-818-CV-

2017-00042, BRICKERMAN V. STATE,

d. NEW MEXICO COURTS DEPARTMENT SHALL
AWARD IN THE AGGREGATE,

a. 120 DAYS FOR ASSOCIATES OF APPLIED SCIENCE
DEGREE IN BUSINESS ADMINISTRATION;

b. 120 DAYS FOR RESIDENTIAL DRUG ABUSE PROGRAM
(RDAP)

C. 30 DAYS FOR INTENSIVE OUTPATIENT SUBSTANCE ABUSE PROGRAM (IOPSA);

3. PETITIONER SHALL RETAIN PREVIOUSLY AWARDED LSA CREDIT OF AN AGGREGATE OF 120 DAYS FOR ASSOCIATES OF APPLIED SCIENCE DEGREE IN WIND ENERGY.

4. THE TWO ASSOCIATE'S OF APPLIED SCIENCE DEGREE LSA AWARDS ARE SEPERATE AND DISTINCT - 1 FOR BUSINESS ADMINISTRATION AND 1 FOR WIND ENERGY. (DOC. 31-4, PP. 402-05).

• MAY 20, 2020 DECISION & ORDER DENYING PETITION FOR WRIT OF HABEAS CORPUS AND VACATING MAY 21, 2020 STATUS HEARING, FILED IN THE BTH JUDICIAL DISTRICT COURT OF THE STATE OF NEW MEXICO IN CAUSE NUMBER D-818-CV-2018-00014, GREEN V. BOWEN,

1. AAS AUTOMOTIVE TECHNOLOGY (CONFIRMED 09/02/2014). NO RELIEF GRANTED;
2. AA UNIVERSITY STUDIES (CONFIRMED 09/02/2014). NO RELIEF GRANTED;
3. CERTIFICATE IN COMPUTER MAINTENANCE (CONFIRMED 09/04/2014). NO RELIEF GRANTED;
4. AAS BUSINESS ADMINISTRATION (CONFIRMED 06/18/2015) NO RELIEF GRANTED.

• DECEMBER 20, 2024. MATTHEW COY, SECOND 120 DAY LSA FOR EARNING A SECOND ASSOCIATE'S DEGREE;

• DECEMBER 20, 2024 (ON OR ABOUT) RALPH MAESTAS, SECOND 120-DAY LSA FOR EARNING A SECOND ASSOCIATE'S DEGREE.

THESE ARE THE CASES MR. GREEN IS PERSONALLY FAMILIAR WITH; THERE ARE LIKELY MORE. HOWEVER, WITHOUT AN EVIDENTIARY HEARING MR. GREEN HAS BEEN DENIED THE OPPORTUNITY TO DEVELOP HIS CASE THROUGH THE DISCOVERY PROCESS.

THE RECORD ESTABLISHES THAT MR. GREEN HAS PRESENTED EVIDENCE AND ARGUMENT THAT WOULD CAUSE "REASONABLE JURIST [TO] DEBATE WHETHER (OR, FOR THAT MATTER, AGREE THAT) THE PETITION SHOULD HAVE BEEN RESOLVED IN A DIFFERENT MANNER OR THAT THE ISSUES PRESENTED WERE ADEQUATE TO DESERVE ENCOURAGEMENT TO PROCEED FURTHER.³³ SLACK, SUPRA. SPECIFICALLY, OTHER INMATES RECEIVED MULTIPLE LSAC(S) THAT WERE DENIED TO MR. GREEN.

³⁴ THE EQUAL PROTECTION CLAUSE REQUIRES THE STATE TO TREAT ALL SIMILARLY SITUATED PEOPLE EQUALLY.³⁵

(CITY OF CLEBURNE V. CLEBURNE LIVING CTR., 473 U.S. 432, 439, 105 S.Ct. 3249, 87 L.Ed.2d 313 (1985)).

"IN THE PRISON CONTEXT, HOWEVER, EVEN FUNDAMENTAL RIGHTS SUCH AS THE RIGHT TO EQUAL PROTECTION ARE JUDGED BY A STANDARD OF REASONABLENESS - SPECIFICALLY, WHETHER THE ACTIONS OF PRISON OFFICIALS ARE 'REASONABLY RELATED TO LEGITIMATE PENOLOGICAL REASON.'" (TURNER V. SAFFLEY, 482 U.S. 78, 89, 107 S.Ct. 2254, 96 L.Ed.2d 64 (1987)). IN THIS CASE, THE DIFFERENTIAL TREATMENT OF MR. GREEN SERVED NO LEGITIMATE PENOLOGICAL INTEREST.

NEVERTHELESS, AN EQUAL PROTECTION CLAIM MAY BE ESTABLISHED BY SHOWING THAT PRISON OFFICIALS INTENTIONALLY DISCRIMINATED AGAINST A PLAINTIFF BASED ON HIS MEMBERSHIP IN A PROTECTED CLASS, OR THAT SIMILARLY SITUATED INDIVIDUALS WERE TREATED DIFFERENTLY WITHOUT A RATIONAL RELATIONSHIP TO A LEGITIMATE STATE PURPOSE, (ENQUIST V. DR. DEPT OF AGRIC., 553 U.S. 591, 601-02, 128 S.Ct. 2146, 170 L.Ed.2d 975 (2008); VILL. OF WILLOWBROOK V. DIECH, 528 U.S. 562, 564, 126 S.Ct. 1073, 145 L.Ed.2d 1060 (2000)). THE STATE OF NEW MEXICO'S DECISION WAS BASED ON A CHANGE IN POLICY NOT LAW. THE OTHER SIMILARLY SITUATED INMATES CHALLENGED THE STATE'S DENIAL OF THEIR LSA(S) UNDER THE SAME POLICY, CD-082801 (REV. 08/14/13). THE

RESPONDENTS ACKNOWLEDGED THAT MR. GREEN MET ALL OF THE REQUIREMENTS UNDER NIMSA § 33-2-34, BUT SO DID THE OTHER SIMILARLY SITUATED INMATES.

THE HEAD OF CLASSIFICATION RECOMMENDED MR. GREEN FOR THE ADDITIONAL LSAL(S), JUST LIKE THE OTHER SIMILARLY SITUATED INMATES. THE SAME IS TRUE OF THE DENIALS BY NMCD. MR. GREEN AND THE OTHER SIMILARLY SITUATED INMATES CHALLENGED THE STATE'S DENIAL THROUGH A PETITION FOR WRIT OF HABEAS CORPUS.

THE OTHER INMATES RECEIVED SOME RELIEF; MR. GREEN DID NOT. SAME POLICY, SAME REQUIREMENTS, SAME LSAL(S), SAME PROCEDURES, DIFFERENT RESULTS.

By REQUIRING THAT A STATE MAY NOT DEPRIVE A PERSON OF LIFE, LIBERTY, OR PROPERTY WITHOUT DUE PROCESS OF LAW, THE FEDERAL CONSTITUTION'S FOURTEENTH AMENDMENT PROTECTS THE INDIVIDUAL AGAINST ARBITRARY ACTION OF THE GOVERNMENT. "A LIBERTY INTEREST MAY ARISE FROM THE CONSTITUTION ITSELF, BY REASON OF GUARANTEES IMPLICIT IN THE WORDS 'LIBERTY', OR IT MAY ARISE FROM AN EXPECTATION OR INTEREST CREATED BY STATE LAWS OR POLICIES."

WILKINSON V. ARISTIN, 545 U.S. 209, 221, 125 S. Ct. 2384, 162 L.Ed.2d 174 (2005). MR. GREEN AVOWS THAT HE HAS A LIBERTY INTEREST IN THE FOURTEENTH AMENDMENT'S EQUAL PROTECTION GUARANTEE.

IT IS OBVIOUS THAT THE FEDERAL DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO MADE A DECISION TO NOT GRANT MR. GREEN'S PETITION BASED ON INACCURATE AND INCOMPLETE FACTS. FOR THESE REASONS THE FINAL JUDGMENT WAS CONTRARY TO THIS COURT'S WELL ESTABLISHED LEGAL PRECEDENTS. LIKEWISE, THE SAME HOLDS TRUE FOR THE TENTH CIRCUIT COURT OF APPEALS. IF NOT FOR THE FAILURES OF THE NEW MEXICO JUDICIARY, THE TENTH CIRCUIT WOULD HAVE ISSUED A COA; OR RATHER IT WOULD NOT HAVE BEEN ASKED IN THE FIRST PLACE IF THE STATE COURT'S DETERMINATION HAD BEEN DIFFERENT. AS IT IS, IN LIGHT OF THE RECORD AND THE ESTABLISHED FACTS, THE TENTH CIRCUIT COURT OF APPEALS' DECISION NOT TO ISSUE A COA WAS CONTRARY TO SLACK V. McDAWELL, SUPRA.

X. CONCLUSION

MR. GREEN WAS NOT AFFORDED AN EVIDENTIARY HEARING IN STATE COURT. AS A RESULT, THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEW MEXICO BASED ITS DECISION TO DENY MR. GREEN'S STATE HABEAS PETITION ON ERRONEOUS FINDINGS AND CONCLUSIONS OF LAW. SUBSEQUENTLY, THE NEW MEXICO SUPREME COURT'S SUMMARY DISMISSAL OF MR. GREEN'S STATE PETITION FOR WRIT OF CERTIORARI WAS CONTRARY TO THE UNITED STATES CONSTITUTION, AMENDMENT XIV. THE FEDERAL DISTRICT COURT AND THE TENTH CIRCUIT COURT OF APPEALS, WITHOUT THE BENEFIT OF A FEDERAL EVIDENTIARY HEARING, SIMPLY RELIED ON THE LOWER COURT'S DECISION WITHOUT FULLY COMPREHENDING THE FACTS PRESENTED IN THE RECORD. MR. GREEN PROTESTS THAT THE DECISIONS OF THE LOWER COURTS "DECIDED AN IMPORTANT FEDERAL QUESTION IN A WAY THAT CONFLICTS WITH RELEVANT DECISIONS OF THIS COURT." SEE, RULE 10(C) OF THE USSC RULES AND THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION.

WHEREFORE, MR. GREEN RESPECTFULLY REQUESTS THIS COURT TO ISSUE A WRIT OF CERTIORARI BASED ON THE EVIDENCE DEMONSTRATING THAT MR. GREEN:

- (1) DID INDEED EXHAUST HIS EQUAL PROTECTION CLAIM AT THE STATE LEVEL;
- (2) WAS SIMILARLY SITUATED TO OTHER INMATES;
- (3) COMPLETED THE SAME EDUCATIONAL REQUIREMENTS AS OTHER INMATES SIMILARLY SITUATED TO HIMSELF;
- (4) DEMONSTRATED THAT THE STATE OF NEW MEXICO AWARDED MULTIPLE LSA(S) TO SEVERAL OTHER INMATES;
- (5) HAS SHOWN THAT UNACD POLICY CD-082801 PRIOR TO AUGUST 14, 2013 CLEARLY STATED THAT INMATES MAY RECEIVE MORE THAN ONE (1) LSA FOR EARNING AN ASSOCIATE'S DEGREE;
- (6) PRESENTED SUBSTANTIAL EVIDENCE DEMONSTRATING THAT THE ENDA DOES NOT PROHIBIT INMATES FROM RECEIVING MULTIPLE LSA(S) AS A MATTER OF LAW;
- (7) HAS SHOWN THAT THE UNACD DID NOT HAVE A LEGITIMATE PENOLOGICAL INTEREST IN DENYING HIM THREE-HUNDRED NINETY (390) DAYS OF EARNED LSA(S);
- (8) HAS SHOWN THAT THE STATE OF NEW MEXICO'S DENIAL OF THE EARNED LSA(S) IS IN DIRECT CONTRADICTION OF THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION, AND

(9) HAS SHOWN THAT HE IS ENTITLED TO THE
REQUESTED RELIEF.

WITHOUT THIS COURT'S INTERVENTION, MR. GREEN,
A UNITED STATES NAVY VETERAN WITH A SERVICE
CONNECTED DISABILITY, WILL NOT HAVE BEEN AFFORDED
THE BENEFITS AND PROTECTIONS OF OUR COUNTRY'S
HIGHEST AND MOST REVERED LAW, THE UNITED STATES
CONSTITUTION. MR. GREEN SERVED THIS COUNTRY
BETWEEN DECEMBER 1988 AND MARCH 1997. HE
EARNED AND DESERVES THE RIGHT TO EQUAL PROTECTION
GUARANTEED BY THE CONSTITUTION HE VOLUNTARILY
DEFENDED. WHEREFORE, MR. GREEN REQUESTS
THAT THIS HONORABLE COURT ISSUE ITS WRIT
GRANTING MR. GREEN THREE-HUNDRED NINETY (396)
DAYS OF LSA(S) AS WELL AS ANY ADDITIONAL
RELIEF DEEMED NECESSARY AND APPROPRIATE
UNDER THE LAWS OF THE UNITED STATES.

RESPECTFULLY SUBMITTED, 17 MARCH, 2025.

RESUBMITTED: 21 MAY, 2025

Brent A. Green,
PETITIONER, PRO SE.

RE-RESUBMITTED: 18 JULY, 2025

OCPF NUACD# 73636

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