

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

Washington, D.C.

Troy Davis — PETITIONER
(Your Name)

vs.

Jonathan A. Rountree et al RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Troy Davis #356886
(Your Name)

Louisiana State Prison
(Address)

Angola, Louisiana 70712
(City, State, Zip Code)

NAME
(Phone Number)

QUESTION(S) PRESENTED

Whether according to Rule 56(c) is a party entitled to summary Judgment in his favor "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits,

Whether Rule 56(e) provides that "when a motion for summary Judgment is made and supported as provided in this rule may an adverse party may not rest upon the mere allegations or denials of the adverse party's pleading, but the adverse party's response by affidavits

Whether the district courts authority to permit serving "at some other time" is governed in turn by Rule 65(b) which provides that when an act is required to be performed by a specified time the district court may upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect.

Whether the C.D.A. to the filing of a notice of appeal which in civil context all would consider to be part of the same "proceeding (instituted by a complaint)" as the trial and merits appeal.

Whether the Judgment is not final due to the Magistrate Judge failure to file a report and recommendation.

Whether either party can ask for a Jury trial and a party may not withdraw a Jury demand without the other sides consent.

Whether the Seventh Amendment guarantees the right to a Jury Trial in federal court civil rights suits for money damages against prison officials or other other government employees.

Whether the Federal rules of civil procedure "Rule 60(b)(5) authorizes relief when plaintiff's Judgment upon which it was based has been reversed or otherwise vacated.

Whether relief is due, due to plaintiff amended complaint had relieved his rights to demand a jury trial.

Whether the defaulted importance of the evidence admitted to summary judgment had precluded plaintiff make evident that plaintiff is challenging the process the court used - including to deny plaintiff's summary judgment not the substance of that decision.

Whether the finding that when the district court had decided to grant plaintiff's rule 59 motion, that decision became "an entirely new judgment."

Whether "the circumstances (including lack of counsel) contributed to the delay which support a good reason for a salubrious exercise of discretion under rules 39 and 59).

Whether as an action tried on facts without a jury does rule 52 (5) and 52 (A) (1) warrants relief.

Whether Rule 39(b) may require the district court to accept uniformly jury demand by unrepresented plaintiff.

Whether Rule 38(b) may require a litigant who ask belatedly for a jury trial to offer a reason for not meeting the deadline for a jury trial in a rule 38(b) motion.

Whether "the interest between rule 56(e) and 59 motions for a new trial is not limited to judgment after trial."

Whether an rule 59 motion may also be used if the court has entered judgment without trial. For example, by entering a motion to dismiss or for summary judgment.

Whether an properly filed rule 59 motion also "voids" plaintiff's present and previously filed notice of appeal, described the scope of rule 59 as unrestricted "which also "operates" to suspend the finality of an (District Court) judgment."

Whether rule 39 (b) requires courts to accept untimely jury demands by unrepresented plaintiffs.

Whether implementing procedural rules entitles where a mistaken / delayed request for a jury trial may be excluded under the terms of rule 39 (b).

Whether attacking an "deferred procedure" in the interests of federal procedure, specifically where the district court rejected plaintiff's case to the Magistrate Judge in reference to § 1036. Is entitled to have his case remanded to give the Magistrate Judge an opportunity to file an report and recommendations with evidentiary support.

Whether the failure to comply with the court order was not within plaintiff's control constitute "Excusable Neglect" according to Rule 65 (B) (1).

Whether plaintiff should be excused due to the informalities of the title where he filed an CAA instead of filing an Amended Notice of Appeal where according to Fed R. App. P. rule 3 (c) (1) (4) an appeal must not be dismissed for informality and whether this constitute excusable neglect under rule 65 (b) (1).

Whether an Amended Notice of Appeal is an rule 65 motion rule 4 (a) (4) (A) (iv), (v), (vi).

Whether plaintiff Amended Notice of Appeal files from the March 7, 2017 denial of his rule 59 and 65 (B) motions.

Whether plaintiff meets the exception to rule 4 (a) (4) (B) (iii) where no additional fee is required to file an Amended Notice of Appeal or whether rule 4 (a) (4) (B) (iv) applies.

Whether the Seventh Amendment Jury Trial right extends to suits at common law which refers to suits in which legal rights (are) to be ascertained and determined in contradistinction to those where equitable rights (are) "recognized" and equitable remedies are administered.

Whether if counsel were appointed, plaintiff should not have to be entitled to pay additional fees as required, cause plaintiff's motion is an Amended Notice of Appeal rule 4 (a) (4) (B) (iv).

Whether if appointed with legal experience of counsel - counsel would had explain with comprehensible knowledge that plaintiff is challenges an order disposing of an Motion listed under Fed. R. App. Pts. Rule 4 (A) (4) (A) (iv) and (V).

Whether with an appointed counsel, plaintiff would be excused due to the informality of the LRA / Notice of Appeal according to rule Fed. R. App. Pts. Rule 3 (1) (1) (4).

Whether plaintiff motion(s) should be entertained concerning that he meets the exception to rule 4 (A) 4 (B) (ff) where a party intending to challenge an order disposing of any motion listed in rule 4 (A) (4) (A).

Whether the district court did not state its reasons for its decision to conduct a bench trial rather than a Jury trial with respect to plaintiff claims.

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:

Dr. Jonathan A. Roundtree

Dr. Jessu Collins

Dr. Williams

Dr. Hal MacMurdo

Dr. Billy Cannon

Dr. Randy Lauesprete

RN Tracy Falgout

ADA Courtney Adams

Assistant Attorney General Margaret A. Collier

Assistant Warden Kenneth Norris

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ 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 Davis v. Broun-Hill, No. 17-30267, 3:12-CV-41; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

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

☒ reported at Davis v. Broun-Hill, USDC No. 3:12-CV-41; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

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

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

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

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

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was November 7, 2017.

☐ 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: November 29, 2017, and a copy of the order denying rehearing appears at Appendix 1B.

☐ 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

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V

In part: No person shall be deprived of life, liberty, or property, without due process of law.

Amendment VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law.

Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

Amendment XIV

In part: All persons born shall not for any State deprive any person of life, liberty or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Justifying supporting granting relief under Rule 59 (A) (1), (B) (2), (B) and (d); plaintiff asserted by the demonstration and by clear and convincing evidence. (1) The Adverse party's fail to follow the rules of 38, 39, 40 and 70(E) of the Fed. R. Civ. Pro. (2) The misconduct prevented plaintiff (Davis) the moving party from a fair trial. See Rule Rule 60(b) (1) EXCUSABLE NEGLECT "Circumstances outside and beyond (Davis's) control".

Moreover, plaintiff also asserted that he's relying upon the statute in the Fed. R. Civ. Pro. Rule 59(A) (1) (d): New Trial At The Courts Initiative Or For Reasons Not In The Motion.

Thus, by moving forward with this lawsuit the effects of imprisonment brings about "Retaliation" the withdrawal of many privileges and rights, so that my rights to file suits may be restricted, such as the denial of the rights of access to the courts records. 47, 52, 53, 60, 71, 85, 89, 84

STATEMENT OF THE CASE

AFTER PLAINTIFF CASE WERE DENIED BY THE SUPREME COURT OF THE UNITED STATES IN *RE: DAVIS V ROUNDTREE ET AL* NO. 15-8515, PLAINTIFF RETURNED HIS CASE TO THE DISTRICT COURT FOR A NEW TRIAL BASED ON PROPER PROCEDURES OF THE RULES AS "DEFECTED PROCEDURE" IN THE INTERCITY OF THE FEDERAL PROCEEDINGS.

SPECIFICALLY, THE PURPOSE AND MECHANICS BEHIND PLAINTIFF'S RULE 59 MOTION FOR NEW TRIAL DOES NOT SEEK TO REVERSE A MATTER'S RULING OR TO ATTACK THE COURT'S DECISION. PLAINTIFF ASSERTS THAT THE FEDERAL COURT HAD ENTERED ACCORDING TO RULE 38 AND 39 OF THE FEDERAL RULES OF CIVIL PROCEDURE, A RIGHT TO A JURY TRIAL AND DEMAND TRIAL BY JURY. PLAINTIFF ASSERTED, ACCORDING TO RULE 38 (A) AND (B) THE RIGHT OF TRIAL BY JURY AS DECLARED BY THE SEVENTH AMENDMENT TO THE CONSTITUTION - AS PROVIDED BY A FEDERAL STATUTE - IS PRESERVED TO THE PARTIES IN VIOLATE; DEMAND STATES, AS ANY ISSUE TRIABLE OF RIGHT BY A JURY, A PARTY MAY DEMAND A JURY TRIAL BY § (1) SERVING THE OTHER PARTIES WITH A WRITTEN DEMAND - WHICH MAY BE INCLUDED IN A PLEADING.

PLAINTIFF ASSERTS THAT THE DEFENDANTS SPECIFIED THE ISSUES THAT THEY WISHED TO HAVE A TRIAL BY A JURY. DEC. 31, 32, 73-1 DEFENDANTS DEMAND WERE SERVED IN THEIR PLEADING ACCORDING TO RULE 38 (b) (1) AND RULE 38 (c). DEC. 31, 32, 73-1 PLAINTIFF FURTHER ASSERTED THAT THE COURT HELD THAT EITHER PARTY CAN ASK FOR A JURY TRIAL AND A PARTY MAY NOT WITHDRAW A JURY DEMAND WITHOUT THE OTHER SIDES CONSENT.

REASONS FOR GRANTING THE PETITION

Plaintiff asserts that the reasons for granting his petition are that "due to" the standard set forth in Rule 56 of the Federal Rule of Civil Procedure. Rule 56(c) states that a party is entitled to summary judgment in his favor "if the pleadings, depositions, answers to interrogatories, and admissions of fact together with the affidavits."

Furthermore asserting that when a motion for summary judgment is made and supported as provided, an adverse party may not rest upon mere allegations or denials of the adverse party's pleadings but the adverse party's response by affidavit. Under Rule 56(e) the district court "may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits."

The object of this provision is to not replace conclusory allegations without an affidavit of Warden Kenneth Norris. As set forth. Rule 56(e) provides that Judgment "shall be entered" against the assuming party unless affidavit or other "evidence" set forth specific facts showing that there is a genuine issue for trial. *Anderson v Liberty Inc.* 477 U.S. 242, 249, 106 S.Ct. 2505, 2510, 91 L.Ed.2d 262 (1986). See also *First National Bank of Ariz v Cities Service Co.* 391 U.S. 253, 291, 88 S.Ct. 1575, 1593, 20 L.Ed.2d 569 (1968).

Plaintiff's petition should be granted due to the fact that he's attacking as "defective procedure" is the integrity of the federal proceedings. Where in Federal Rules of Civil Procedure Rule 52(c) Judgment as Partial Findings is states in pertinent part: that The court may decline to render any Judgment until the close of the evidence. (Affidavit). These Judgment were also decided as "partial Findings" without by the findings of facts from the Magistrate Judge as required by Fed. R. C. P. Rule 52 (A) Findings and Conclusions by The Court; Judgment as Partial Findings.

(vii)

In Rule 52(A)(1) Findings and Conclusions it states:
In general in an action tried on the facts without a jury
the court must find the facts specially and state its
conclusions of law separately. These findings and con-
clusions were not stated on the record after the evidence.

Thus Rule 52(5) Questioning the Evidentiary Su-
pport states: A party may question the sufficiency of evi-
dence supporting the findings. Rule 52(6) Setting aside
the findings states: Finding of fact, whether based on oral
or other evidence, must not be set aside unless clearly
erroneous, and the reviewing court must give due re-
gard to the trial court's opportunity to judge the wit-
nesses' credibility. *Celotex Corp. v. Catrett*, 477 U.S. 317,
322, 106 S.Ct. 2548, 2552 91 L.Ed. 2d 265, 273 (1986).

Plaintiff requests this court to consider four prim-
ary factors: (1) the reasons for the default (2) the importance
of the evidence to plaintiff's case (3) whether the evidence
(or parts) were or should have been available to plaintiff and
the courts (prior to the entry of judgment and (4) the
likelihood that the defendant will suffer unfair prejudice
if the case is remanded. *Ford* 32 F.2d at 937-38 (citing)
Louespere, 915 F.2d at 174.

In addition plaintiff the "procedural defect" sought
for this court to consider is according to rule 56(E)(1) and
(2) where in this case in which plaintiff seeks to upset a Su-
mmary Judgment on the basis of evidence where Warden
Kenneth Norrie failed to introduce as time a affidavit under
rules 56(1), (2) and (3) the important facts that on Judgment
were rendered without the basis of all facts under TITLE
II of the ADA *re: 29* where its amended complaint
were to be allowed to include these claims. This "defect"
under rule 56(b)(5) also authorizes relief when a Jud-
gment upon which it was based has been reversed and
vacated. *re: 29*

The defaulted importance of the evidence omitted to Summary Judgment had prejudice plaintiffs which also make evident that plaintiff's challenge the process the court used in deciding to deny plaintiff summary judgment. Noting that the United States Court of Appeals Fifth Circuit stated that plaintiff's ADA claims is a non-frivolous claim for appellate court review, 117.

Plaintiff's petition should be granted due to his supporting brief to his informal papers asserts that a rule 39(b) requires district courts to accept untimely jury demand by unrepresented plaintiffs. *Members V PACE* 140 F.3d 699 Fed at 702. According to Rule 38(b) means that the district judge may require a plaintiff who ask belatedly for a jury trial to show a reason for not meeting the deadline for a jury trial in a rule 38(b) motion. Also procedural rules entails exercise of discretion where a mistaken delay in requesting a jury trial may be excused under the terms of the Fed.R.C.P. R.D. 39(b).

Plaintiff's issues are that he's entitled to relief due to his amended complaint had relieved his rights damaged a jury trial rec'd. (29) *Salihuddin V Harris* 684 F.Supp. 1224 (1228) S.D.N.Y. Rule 38(b) rec'd. (172).

Plaintiff's issues asserts that he's entitled to relief due to the "Defendants" asked for a rec'd. (31) (32) and 73-4. See *DE LA ROSA V ROMERO* 962 F.2d 199, 202 (2d Cir. 1992). In *DE LA ROSA* holding further holds that either party can ask for a jury trial and a party may not withdraw a jury demand without the other side's consent.

Although plaintiff's issues are that he participated in the bench trial while continuing to demand a jury trial rec'd. (112) and that his continuing objection is sufficient to preserve his rights to appeal the denial of his request for a jury. *U.S. V Nordbrook* 941 F.2d 947, 950 (9th Cir. 1991). See also 514 F.3d 946, *Salis V County of Los Angeles* C.C. 19 (Cal) 2008 19d. at 956.

Namely plaintiff petition should be granted respectfully due to the District Court ERRORED to deny him the right to trial by Jury according with rule (38) and (39) where in rule (38) Right to a Jury Trial states THE right of trial by Jury as declared by the Seventh Amendment to the Constitution or as provided by Federal statute - is preserved to the parties in violation. In plaintiff case there were a dispute over facts which made it necessary causing the court to deny Summary Judgment, these terms where grounds to proceed to trial to determine the fact of the case.

Plaintiff petition should be granted cause his issues clearly demonstrates that, courts is not suppose to decide disputed facts or issues credibly on a summary Judgment motion. RE: doc. (15) (17) (72) (73) (86) (90) and (91) SEE ALSO WILSON V WILLIAMS 997 F.2d 348, 358-51 (7th Cir. 1993) GRAY V SPILLMAN 925 F.2d 1915 95 (4th Cir. 1991); TETLOW V ACKMAN 893 F.2d 145, 147 (7th Cir. 1998).

Plaintiff's main issue is that THE SEVENTH Amendment GUARANTEES the right to a Jury Trial in Federal court civil rights suits for money damages against federal officials or other government employees. SEE DILLON V FLYNN 1228 F.2d 138, 142-43 (1st Cir. 1986) CURTIS V LOETHER 415 U.S. 129 S.Ct. 94 S.Ct. 1685 (1974) discussing the scope of the Seventh Amendment. The substantial showing made of the denial of plaintiff constitutional right in violation of his Due Process and Equal Protection where the Seventh Amendment GUARANTEES the right to a trial by Jury "now suits at common law, where the value in controversy shall exceed twenty dollars, U.S. Const. Am. VII 514 F.3d 946 SOLIS V County of Angeles CA. CA 2508 fd at 953.

THE task plaintiff seeks, is to have his case re considered, asking the court to balance the interest between Rule 56(E) and Rule 59, where as Rule 59 motion for a New Trial is not limited to Judgment after trial, AN rule 59 motions may also be used if the court has entered Judgment without trial; RE: doc. (86) (87) (90) and (91) for example by granting a motion to dismiss or for summary judgment. SEE EMMY V SECRETARY OF NAVY, 89 F.2d 291, 293 (DC Cir. 1927) 10

Plaintiff's petition should be granted simply because plaintiff properly filed Rule 59 motion also "voids" his present and previously filed notice of appeal. REC. doc. 119 (116) and 117; this rule have described the scope of rule (59) "as" unrestricted" which also "operates" to sustain the finality in the (District Court) Judgment. MORMISTE SALES INC. 412 F.2d at 688 (quoting) Browder v Dir. Dep. of Corr. 434, 257, 267, 48 S.Ct. 556, 591 L.Ed. 2d 521 (1998)

Again this petition should be granted on issue of just being represented by counsel which excuses his request of an untimely second jury demand. Plaintiff is relying on (tax) theories: (1) that plaintiff is pro se under statute and (2) the district courts power under Rule 39(b) can grant an untimely request for a jury trial

Like in Members and Merritt v Faulker 823 F.2d 1150 (7th Cir. 1987), they were prisoners proceeding pro se; plaintiff asserts language in Merritt to support his claims that plaintiff indicates from his motions (5) REC. doc. (6) (35) (85), (87) and (116) motion to appoint counsel seeking representation, thus due to plaintiff advanced such motion (5), which his actual situation of his claims requires removal where counsel could have appeared for purpose of monitor the progress of the proceeding

Plaintiff petition attacks an "defected procedure" in the integrity of federal procedure, specifically were the district court referred his case to the Magistrate Judge in reference to § 636 REC. doc. (113) plaintiff asserts that he is entitled to have his case remanded to give the Magistrate Judge an opportunity to file a report and recommendation as with evidentiary supports. This is an "defected procedure" that need to be over with an Evidentiary Hearings

Moreover, the Magistrate Judge was fully informed as to the nature of the claim, because the claim had been in litigation before the court for several months. See REC. doc. (113). The failure for failing to comply with the court order, was not within plaintiff's control constituting "Excusable Neglect" SEE Fed. R. Civ. Pro. rule 60 (B) (1). (X1)

Plaintiff's petition should be granted due to the district court abused its discretion in refusing to allow the Magistrate Judge to file an report and recommendations where plaintiff's motion appressed the court of the "EXISTENCE" NATURE OF HIS CLAIM(S) THAT SET FORTH IN GREAT DETAIL(S) AND FACTS.

To identify "strong compelling" reasons why this court should consider to grant this petition rather than to deny altogether; plaintiff asserts that he should be excused due to the information of the file, where he filed an CDA instead of filing an Amended Notice of Appeal were according to Fed. R. App. Pro. rule 3(C)(1)(4) which states an appeal must not be dismissed for (informality) which also constitute excusable neglect to see Fed. R. C.P. rule 60(b)(1)

Plaintiff, issues, that his Amended Notice of Appeal is an Rule 60(b) motion rule 4(A)(4)(A)(IV)(V) asserting that his "Amended Notice of Appeal" runs from the March 7, 2017 denial of his rule 59 and 60(B) motion.

Thus according to listed rules, plaintiff asserts also that his petition should be granted for the reasons that his notice of appeal contesting that his Rule 59 Motion and 60(b) motion fits Rule 4(A)(4)(A)(IV)(V) where if a party timely files in the district court any of the following motions under Federal Rules of Civil Procedure, the time to file an appeal runs from all parties from the entry of the order disposing of the last such remaining motion: (IV) to alter or amend the judgment under Rule 59; (V) for a new trial under Rule 59; or (V) for relief under Rule 60 if the motion is filed no later than 28 days after the judgment is entered.

Plaintiff's motion(s) should have been entertained with an open mind, considering the circumstances that he met the exception to rule 4(A)(4)(B)(IV) where it states in part that a party intending to challenge an order disposing of any motion listed in Rule 4(A)(4)(A) or a judgment's altering or amended upon such a motion, must file a notice of appeal or an amended notice of appeal, in which entrapment with Rule 4(A)(4)(B)(IV) where no additional fee is required to file an amended notice. (XII)

Relating back to plaintiff's motion for appointment of counsel rec'd. (11/6) pg. 2 & 2 plaintiff case filed - YES "multiple parties which meets the exceptions to F.R.A. P. Rule 4(a)(1)(B) due to an agency. AN OFFICER (A.U.D.C.A. AND COURTNEY ADAMS ET AL) WHERE HE REQUESTED FOR AN EXTENSION OF TIME" TO FILE AN ADDITIONAL AMENDED NOTICE OF APPEAL so that he may also FILE A SUPPORTING BRIEF WITH SUCH MOTION UNDER RULE 4(5)(A)(I) AND (II) OR IN ALTERNATIVE ALLOW - SAN AMENDED NOTICE OF APPEAL to be included within this supporting brief.

Although the district court did not state the reasons for its decision to conduct a bench trial rather than a jury trial with respect to plaintiff's claims. Plaintiff asserts that the district court erred in holding a bench trial instead of a jury trial to adjudicate his claims against defendants and that such error warrants reversal of its verdict in favor of defendants.

The misapprehension of law permits this reviewing court to review the entire record that were overlooked of plaintiff's points of law and facts.

Plaintiff asserts in general details of what is that the lower District Court and the United States Court of Appeals Fifth Circuit overlooked and misapprehended his Motion for New Trial complaint where he made sufficient showing of "Retaliation," Deliberate Indifference to serious medical needs as well as the Denial To Accommodation in the GRANTEES OF PROGRAMS according to TITLE II OF THE ADA (Interference With Prescribed Treatment) and (Discrimination) "UNDER PROGRAMS AND ACTIVITY RECEIVING FEDERAL FINANCIAL ASSISTANCE. according to THE RIGHTS IN TITLE VI OF THE Civil Rights Act.

Plaintiff's petition should be granted due to the fact that The Seventh Amendment Jury Trial Right, extends only to "Suits at common law" which refers to "suits in which legal rights (are) to be ascertained and determined, in contrast to those where equitable rights (are) to be 'recognized' and equitable remedies are administered.

(XIII)

REC. doc. 1297. CHAFFETTS Local No. 391 V Terry 494 U.S. 558
514, 115 S. Ct. 1339, 118 L. Ed. 2d 579 (1995) (Quoting Plessy
V Bedford, 28 U.S. (3 Pet.) 433, 447, 7 L. Ed. 732 (1838))

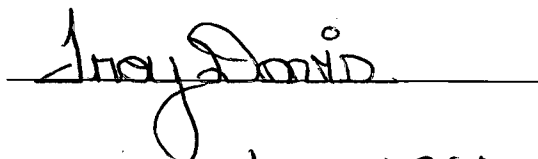
The relief sought --- an opportunity to obtain
A Trial By Jury Demand due to the violations of "Amend-
ments To The Constitution Of The United States Of Am-
endment", where they violated plaintiff's constitutional rights
of his First Amendment where they violated plaintiff's right to
petition the Government for a redress of grievances, which interfere with plaintiff's
Fourth Amendment where plaintiff has the right to
be secure in his personal belongings "papers" against un-
reasonable searches and seizures, without probable cause,
defendant violated plaintiff's Fifth Amendment where they
deprived plaintiff of liberty without due process of law. DE-
fendants had violated plaintiff's Seventh Amendment where de-
fendants and the lower courts knew that according to Amend-
ment VII: In Suits at Common Law, where the Value in Contro-
versy shall exceed twenty dollars, the right of trial by Jury shall
be otherwise be preserved. Defendants violated CRUEL AND
UNUSUAL PUNISHMENT by denial/according to the Eight Amend-
ment 1 of Medical Treatment. Moreover, defendant and the lower
courts deprived plaintiff of liberty without "Due Process" and
Equal Protection according to Amendment Fourteenth where they
enforced the law to abridge plaintiff's privileges as the result
of condition and previous conditions such as living conditions and
confinement.

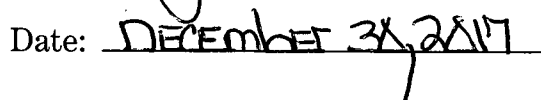
Wherefore, it is the specific prayer of plaintiff for this
court to grant his writ of HABEAS CORPUS remanding back to the
District Court for Trial By Jury Demand.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Tracy D. Davis", is written over a horizontal line.

Date: A handwritten date "DECEMBER 31, 2017" is written in black ink over a horizontal line.