

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Charles Ray Adams — PETITIONER
(Your Name)

vs.

Lieutenant Bailey, 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

Charles Ray Adams
(Your Name)
Dalhart Unit, 11950 FM 998

(Address)

Dalhart, Texas 79022
(City, State, Zip Code)

-NA-
(Phone Number)

QUESTION(S) PRESENTED

Mr. Adams alleges that the United State District Court, Fifth Circuit judgment by the jury, was against the great weigh of the evidence. As Mr. Adams alleged that the evidence was based on a false disciplinary conviction. Mr. Adams requested a new trial on appeal. And the Fifth Circuit Court of Appeals affirmed the judgment of the lower United States District Court on 08-29-17. The case thus presents the following question:

Did the United States District Court, Fifth Circuit err, and abuse its' discretion in deferring to the lower United States District Court findings against Mr. Adams by entering an order affirming the judgment of the lower United States District Court on 08-29-17, related to the false disciplinary charge and conviction in a miscarriage of justice, in a decision in conflict with the decision of another United States Court of Appeals on the same matter?

LIST OF PARTIES

- [] All parties appear in the caption of the case on the cover page.
- [x] 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:

Charles Ray Admas, Petitioner

Lieutenant Scott Bailey, Respondent

Sergeant William Johnston, Respondent

Correctional Officer Walston, Respondent

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	5,6
CONCLUSION.....	7

INDEX TO APPENDICES

APPENDIX A	United States Court of Appeals, Fifth Circuit Final Judgment. Filed 08-29-17.
APPENDIX B	United States District Court, Southern District of Texas, Houston Division. Final Judgment, Filed 07-29-15.
APPENDIX C	
APPENDIX D	
APPENDIX E	
APPENDIX F	

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

<u>Flowers v. S. Reg. Physician Servs., Inc.,</u> 247 F.3d 229, 238 (5th Cir. 2001).....	5
<u>Pruitt v. Mote,</u> 503 F.3d 647, 655 (7th Cir. 2007).....	6
<u>Ulmer v. Chancellor,</u> 691 F.2d 209, 212-13 (5th Cir. 1963).....	6
<u>U.S. v. 4.0 Acres of Land,</u> 175 F.3d 1133, 1139 (9th Cir. 1999).....	5,6

STATUTES AND RULES

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix 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 _____; 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 August 29, 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: _____, 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 following statutory and constitutional provisions are involved in this case.

U.S. CONST., AMEND. VIII

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

U.S. CONST., AMEND. XIV

Section 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 shall 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 deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

Petitioner alleges that on July 1, 2011 the following government actors, Lieutenant Bailey, Sergeant W. Johnston, and Correctional Officer Walston, Respondents herein, in their personal capacities, while under the color of law, acted with deliberate and malicious intentions to cause Petitioner irreparable harm and actual injury. Petitioner states that the Respondents conspired collectively to willfully and brutally assault Petitioner while he was in hand restraints; that Respondents intentionally and knowingly conspired together to bring false disciplinary charges against Petitioner; that the Respondents callously retaliated against the Petitioner for submitting a notification and complaining to public officials; that the Respondents recklessly retaliated against the Petitioner for not participating in a prison investigation; and that they deliberately denied Petitioner access to medical treatment for his serious medical injuries in the matter herein. Petitioner states that he will show on appeal through his statement of facts, grievances, and exhibits that it was Respondents clear intention to cause the Petitioner physical harm and serious injury. Petitioner further states, the Respondents through their acts, actions, and/or omissions violated the constitutional rights of the Petitioner. Which are guaranteed through the bill of rights stated hereinafter. But not limited to the following: 1st, 8th, and 14th Amendments to the United States Constitution. And moreover, the Respondents in their personal capacities are liable to Petitioner on appeal. (Trial on the Merits, Volume 4, Day 4, Page 77,78)(ROA.15-20389.14-15).

REASONS FOR GRANTING THE PETITION

The Fifth Circuit erred in an abuse of discretion in deffering to the District court's verdict.

The Fifth Circuit misapplied the holdings under Flowers v. S. Reg. Physician Servs., Inc., 247 F.3d 229, 238 (5th Cir. 2001) in a miscarriage of justice. That case held that "whether there was any evidence to support the jury verdict." When holding that there was sufficient evidence to support the jury verdict. When in Petitioner's appeal brief in the Fifth circuit filed on 07-01-16, on page 11-12, provided:

"Appellee Sergeant W. Johnston then testified that he wrote Appellant a disciplinary case (20110315870) for attempting to assault him. *[See Footnote] (Trial on the Merits, Volume 3, Day 3, page 20)(ROA.15-20389.922)."

The Footnote provided:

"[Footnote: Even though never discovered during trial. Attempting to assault is not a violation (Plaintiff's Exhibit #5, page 32), Only assaulting."

Petitioner also shows, that on page 13 of this same appeal brief it provides:

"Appellant requests a new trial to expose the false disciplinary charge of attempting at assault Sergeant W. Johnston. Which is the only thing that justified appellant being assaulted. Which was a false disciplinary charge."

Petitioner show that under U.S. v. 4.0 Acres of Land, 175 F.3d 1133, 1134 (9th Cir. 1999), HEADNOTE TWO (2) provides:

"The trial court may grant a new trial, even though the verdict is supported by the substantial evidence, if "the verdict is contrary to the clear weight of the evidence, or is based upon evidence which is false, or to prevent in the sound discretion of the trial court a miscarriage of justice."

Petitioner shows that the fifth Circuits decision affirming the lower courts verdict based on a false disciplinary charge and conviction, and thereby false evidence supporting it, was a miscarriage of justice under U.S. v.

4.0 Acres of Land, 175 F.3d 1133, 1134, (9th Cir. 1999), HEADNOTE TWO (2).

The Fifth Circuit in its same decision denied Petitioner's Motion for the appointment of counsel, and misapplied the holdings under Ulmer v. Chancellor, 691 F.2d 209, 212-13 (5th Cir. 1982). By holding that Petitioner has not shown the existence of exceptional circumstances warranting such an appointment.

Petitioner did make such a showing in his first motion for informa pauperis appointment of pro-vono counsel under 28 U.S.C. §1915 (e)(1) filed on 09-04-15, and in his amended motion filed on 09-28-15 under Pruitt v. Mote, 503 F.3d 647, 655 (7th Cir. 2007).

Petitioner shows that these actions resulted in the arbitrary and capricious abuse of discretion by the Fifth Circuit. In the form of a miscarriage of justice. In denying Petitioner's appeal, and appointment of counsel motion. When the Fifth Circuit decision conflicts with another United States Court of Appeals on the same matter under plain error, in the issue and cases above.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Charles R. Adams

Date: 11/20/17