

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Albert Charles Burgess, Jr. PETITIONER
(Your Name)

vs.

John D. and Scott Elliott RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Fourth Circuit Court of Appeals-Richmond, Virginia
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Albert Charles Burgess, Jr.
(Your Name)

POB 999
(Address)

Butner, N. C. 27509
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. Did the District Court err in not including the MAILBOX filing date of the civil suit when the date clearly marked on the envelope by prison officials showed the suit was timely filed pursuant to Houston v. Lack, 487 US 266, 101 L. Ed 245 108 S. Ct. 2379. (1988) In doing so, the Court abused its discretion.

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:

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APPENDIX F

I apologize to the Court for such a slipshod looking Petition. I have been on Lyrica for over four years and am now off, without results. That fact with "shake downs" they perform to keep us off balance has contributed to much of my angst in preparing this.

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 D to the petition and is

☐ reported at I can find no record yet; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The order(s) of both the District and Circuit Court are included.

The opinion of the United States district court appears at Appendix A + 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☒ is unpublished.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☐ is unpublished.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

~~xxx~~ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was ~~the Mandate was issued~~ 10-3-17; I believe.

[] 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: 10-3-17, and a copy of the order denying rehearing appears at Appendix ~~Ex~~ _____.

I cannot locate either of the orders denying relief under

[] An extension of time to file the petition for a writ of certiorari was granted to and including January 16, 2018 (date) on 11-30-17 (date) in Application No. _____ ^{Rule 59} A Last Exhibit.

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

14th Amendment--Due Process of Law

Reliance on *Houston V. Lack*, 487 US 266, (1988) wherein this Court stated very plainly that the date an Inmate puts a document into the prison mail box, that is the date it will be considered FILED. First, the District Court said the statute of limitations accrued on October 5, 2013. The Mail Box Rule clearly showed the matter to be filed on October 3, 2013, within the statute of limitations.

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Prentiss Houston v. Larry Lack, 487 US 266, 101 L Ed 245,
108 S. Ct 2379 (1988)

Patterson v. Director, Virginia DOC, 36 F. Supp. 2d 317 (1999)

U. S. v. Dorsey 988 F. Supp. 917 (1998)

U. S. v. Hatala, 29 F. Supp 728 (1998)

Felton v. Bell, 1994 U. S. App Lexis 4788 (1994)

STATUTES AND RULES

Rule 59 of the FRCP

OTHER

STATEMENT OF THE CASE

The case concerns the Plaintiff vs. two lawyers. One lawyer, John Elliott commits legal malpractice and the other lawyer, his brother, Scott Elliott conceals his assets to protect him from judgments.

The Defendants, thru counsel, presented a different set of facts than the ones submitted by the Plaintiff. The District Judge figured the accrual date of the case as October 5, 2013.

The Prison Mail Box rule clearly shows by BOP documents that the suit was filed on October 3, 2016.

First the District Court and then the Fourth Circuit refused to rely on the Mail Box Rule and ruled the law suit was time-barred.

This Appeals follows. This is the only issue in dispute. The attached documentation shows the back of the mailing envelope showing the 10-3-16 filed date.

REASONS FOR GRANTING THE PETITION

To garner respect for the law and the opinion(s) of this Court.

To correct a manifest injustice.

Because the facts support this Petitioner's version of events.

CONCLUSION

The Plaintiff filed the action two days before the statute of limitations expired. The Petitioner is entitled to have the case remanded back to the 4th Circuit with instructions to follow the law. The petition for a writ of certiorari should be granted.

Respectfully submitted,



Albert C. Burgess, Jr.

Date: December 11, 2017