

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Gary Flute, Sr., — PETITIONER
(Your Name)

VS.
UNITED STATES OF AMERICA; MR.R. HUSEBY, official & individual capacities; MR.
HUFNAGLE, official & individual capacities; MR.D. TAYLOR, official & individual
capacities; MS.M.HOFFER, ~~official & individual~~ — RESPONDENT(S)
capacities; MS. DEBORAH DENHAM, official & individual capacities.

ON PETITION FOR A WRIT OF CERTIORARI TO

The Tenth Circuit Court of Appeals in Denver, Colorado has been appealed to
but no court within the judicial process has reached the merits of claims.

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Gary Flute, Sr. (Reg.#12387-073)

(Your Name)

Federal Correctional Institution Englewood - Unit East/Lower
9595 W. Quincy Avenue

(Address)

Littleton, Colorado 80123

(City, State, Zip Code)

-No Incoming number for inmates-

(Phone Number)

QUESTION(S) PRESENTED

Whether BOP/FCI-Englewood personnel's sanction upon Plaintiff violated First Amendment by and through the immediate implementation of such sanction prior to the "exhaustion" of the BOP' appellate process by Plaintiff?

Whether 28 USCS § 539C(b)(6) of November 2, 2002 by and through BOP [P.S.]'s 5265.14 and P5266.11 of April 5 and November 9, 2011 can legally attach to Plaintiff in light of Plaintiff's March 11, 2002 Federal imprisonment?

Whether USA/BOP Defendant(s) inquiry of Registration upon release from prison and the unreasonable non-random search and seizure rendered a governmental action that caused Plaintiff to divert legal attention(s) from 28 USCS § 2255(h) and 28 USCS § 1331 claim-processing avenues regarding a pending 28 USCS § 2255(h) within the Eighth Circuit Court of Appeals and a Federal Tort claim action's exhaustion process within the court(s) for Gary Flute, Sr. v. United States, (1:14-CV-91269-LTB) as set forth under clearly established federal law pursuant the Ex Parte Abernathy (1943) doctrine and current equitable tolling doctrine?

Whether Plaintiff has met burden of proof on pleadings for "protected rights as injuries" by and through the "preponderance of the evidence" standard and of which governmental affirmative actions caused irreparable injury under First Amendment?

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:

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3,4
STATEMENT OF THE CASE	5,6,7,8,9
REASONS FOR GRANTING THE WRIT	10,11,12,13,14
CONCLUSION.....	15

INDEX TO APPENDICES

- APPENDIX A- Tenth Circuit Court of Appeals ORDER AND JUDGMENT
of January 25, 2018.
- APPENDIX B- U.S. District Court of Colorado ORDER OF DISMISSAL
OF October 13, 2017.

APPENDIX C

APPENDIX D

APPENDIX E

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

<u>Abernathy, Ex Parte</u> , 320 U.S. 219 (1943).....	4,7.
<u>Bell v. Hood</u> , 327 U.S. 678 (1946).....	4,8.
<u>Bowles v. Russell</u> , 511 U.S. 205 (2007).....	3,4,9.
<u>Butz v. Economou</u> , 438 U.S. 478 (1978).....	3,8.
<u>Greenlaw v. United States</u> , 554 U.S. 237 (2008).....	4,9.
<u>Haines v. Kerner</u> , 404 U.S. 519 (1972).....	11.
<u>Harlow v. Fitzgerald</u> , 457 U.S. 800 (1982).....	4,8.
<u>Hunter v. Hydrick</u> , 174 L.Ed.2d 226 (2009).....	3,8.
<u>Kontrick v. Ryan</u> , 540 U.S. 443 (2004).....	3,4,9.
<u>Landgraf v. USI Film Products, et al.</u> , 511 U.S. 244 (1994).....	3,8.
<u>North Carolina v. Pearce</u> , 395 U.S. 711 (1969).....	4,6.
<u>Reynolds v. United States</u> , 565 U.S. 432 (2012).....	3,8.
<u>Smith v. Wade</u> , 461 U.S. 30 (1983).....	3,8.
<u>Zamiara v. King</u> , 2016 U.S. LEXIS 189 (2016).....	4,9,10.
 <u>Dixon v. Brown</u> , 38 F.3d 379; 1994 U.S. App. LEXIS 29158 (8th Cir. 1994) reh en banc, den. 1994 U.S. App. LEXIS 33662.....	4.
<u>Flute, Sr. v. Lovett, et al.</u> , 05-CV-506-KKC (D.C. Ky., 2006).....	12.
<u>Hydrick v. Hunter</u> , 449 F.3d 978 (9th Cir. 2005).....	8.
<u>King v. Zamiara</u> , 680 F.3d 686; 2012 U.S. App. LEXIS 10240 (6th Cir. 2012).....	9.
<u>Scher v. Engelke</u> , 943 F.3d 921 (8th Cir. 1991).....	8.

STATUTES AND RULES

<u>18 U.S.C.S. § 1001(a)</u> - "Statements or entries generally.".....	4.
<u>18 U.S.C.S. § 1505</u> - "Obstruction of proceedings before departments, agencies, and committees.".....	4.
<u>28 U.S.C.S. § 539C(b)(6)</u> - The "Ensign Amendment.".....	3.
<u>28 U.S.C.S. § 1331</u> - "Federal question.".....	Questions presented, 3.
<u>28 U.S.C.S. § 1915A(a)</u> - "Screening.".....	3,4,7,8.
<u>28 U.S.C.S. § 2255(h)</u> - "Federal custody; remedies on motion attacking sentence.".....	Questions presented, 4,6.
<u>42 U.S.C.S. § 1997e</u> - "Suits by prisoners.".....	4,9.
[P.S.] - <u>§ 1330.18</u> - "Administrative Remedy Program.".....	6,7.
[P.S.] - <u>§ 5265.14</u> - "Correspondence.".....	Questions presented.
[P.S.] - <u>§ P5266.11</u> - "Incoming Publications.".....	Questions pres.,
[P.S.] - <u>§ 5270.09</u> - "Inmate Discipline Program.".....	6.

OTHER

<u>U.S. CONSTITUTION</u> - ARTICLE I, section 10, clause 1 - The "Ex Post fact law" and "obligation of contracts" Clauses.....	3.
<u>U.S. CONSTITUTION</u> - Amendment I - The "Freedom of speech" and "petitioning government for a redress of grievances" Clause.....	3.
<u>U.S. CONSTITUTION</u> - Amendment V - "Due process of law" and "just compensation" Clauses.....	3.

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 Appellate Case: 17-1401; 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 D.C. No. 1:17-CV-01717-LTB; 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 January 25, 2018.

☒ 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

Article I, section 10, Clause 1 - The "Ex post facto law" and "obligation of contracts" Clauses.

Amendment I - The "freedom of speech" and the "petitioning government for a redress of grievances" Clauses.

Amendment V - The "Due process of law" and the "just compensation" Clauses.

28 U.S.C.S. § 539C(b)(6) - commonly known as the "Ensign Amendment" of November 2, 2002 whereof which resulted the Bureau of Prison's [P.S.] 5265.14 "Correspondence" of April 5, 2011 and [P.S.] P5266.11 - "Incoming Publications" of November 9, 2011 which resulted with sanctions under [P.S.] § 5270.09 "Inmate Discipline Program." Whereupon the U.S. Supreme Court has previously established federal law regarding such matter. See Reynolds v. United States, infra, (2012); Hunter v. Hydrick, infra, (2009); Landgraf v. USI Film Products, et al., infra, (1994); Smith v. Wade, infra, (1983); Kontrick v. Ryan, infra, (2004); Bowles v. Russell, infra, (2007) and Butz v. Economou, infra, (1978).

28 U.S.C.S. § 1331 - "Federal question" and 28 U.S.C.S. § 2255(h) "Federal custody; remedies on motion attacking sentence," specifically the (1-year) filing deadline provision for that section (h) avenue, new evidence or new U.S. Supreme Court ruling that was made or held as being retroactive.

28 U.S.C.S. § 1915A(a) - "Screening," whereof which statute provides only certain functions of the petitioned court and of which only frivolousness as set forth with 'American Jurisprudence - 2d' in the "Federal courts" section sets forth that the Federal court(s) must declare why any such claim is to be labeled as "frivolous,"

specifically, and to not rely upon a broad determination of such, as the lower courts have done here.

28 U.S.C.S. § 2255(h) - "Federal custody; remedies on motion attacking sentence." (A second or successive motion must be certified as provided in section 2244 [28 U.S.C.S. § 2244] by a panel of the appropriate court of appeals to contain--(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable."

18 U.S.C.S. § 1001(a) - "Statements or entries generally," whereof which the underlying federal documents within an allegedly official process are engulfed by and through the following statute.

18 U.S.C.S. § 1505 - "Obstruction of proceedings before departments, agencies, and committees," whereupon the initial entries by the USA/BOP Defendant(s) have originated within a UDC "committee" action which was appealed on into the (BOP) agencies at Region and the Central offices.

42 U.S.C.S. § 1997(e) - "Suits by prisoners," whereof which clearly mandates an "exhaustion" process, which clearly engulfs not only the Administrative Remedy process, but necessarily implies the exhaustion of all federal claims made against governmental individual employees as established by clear federal law regarding such matters. See Bell v. Hood, infra, (1946); Ex Parte Abernathy, infra, (1943); Kontrick v. Ryan, infra, (2004); Bowles v. Russell, infra, (2007); North carolina v. Pearce, infra, (1969); Harlow v. Fitzgerald, infra, (1982); Greenlaw v. United States, infra, (2008); Zamiara v. King, infra, (2016); and see also Dixon v. Brown, infra, (8th Cir. 1994).

STATEMENT OF THE CASE

The underlying proceedings that have led up to this civil rights action have in fact been a miscarriage of justice by and through the improper authority of USA/BOP Defendant(s) and the ensuing dismissal(s) by the lower Federal court(s) of this valid complaint appears to be what amounts to being as grants of unqualified immunity from those courts when these Defendant(s) have abused a very limited authority by and through the false declarations made by certain Defendant(s) and upheld by other Defendant(s) as it appeared upon governmental Forms which does in fact constitute perjury in furtherance of imposing the procedurally defaulted "claim-processing" sanctions as a result of a bogus incident report/305 shot which resulted with injury that has since become irreparable, except maybe by way of financial compensation pursuant the "just compensation" Clause of the U.S. Constitution in light of the fact that governmental Defendant(s) criminal acts in order to sanction Plaintiff upon what is essentially to Plaintiff, a non-existent offense in order to impose a sanction upon Plaintiff when the BOP's proffered policy of the 'sexually explicit material' authority pursuant the Ensign Amendment of November 2, 2002 cannot legally attach or apply to the Plaintiff by virtue of Plaintiff's March 11, 2002 Federal arrest and Article I, section 10, Clause 1 mandate of the U.S. Constitution when Plaintiff's subsequent imprisonment resulted from the September 12, 2002 jury trial conviction and as a matter of clearly established Federal Ex Post Facto and contracts law, Plaintiff's substantive rights have clearly been violated and the ensuing dismissal(s) of the amended complaint which had been filed inadequately because of the court ordered ~~time~~ restraints in which to amend said complaint and of which had been filed without an attorney as had been requested by Plaintiff in order to adequately proceed, the claims as court ordered to be hastily resubmitted upon that amendment are in fact sufficiently

stated and the \$400.00 filing fee for this action had been paid in full at the time of the initial filing on July 7, 2017 and of which gives the appearance of USA/BOP employee advocacy by the lower Federal court(s) when none of the Defendant(s) are made to show 'cause' for the irregular sanction as enforced by and through highly irregular declaration(s) made by the USA/BOP employees upon Federal document(s) in light of the fact that none of the lower Federal court(s) provided Plaintiff with any USM-285 Forms for servicing.

Furthermore, this blatant abuse of processes by USA/BOP Defendant(s) by and through the filing of governmental documents within an allegedly official process with intentionally false declaration(s) made by certain USA/BOP Defendant(s) upon those documents, to wit; an "incident report" and a "UDC action" Form as a result of their official filings did in fact trigger the sanctions upon Plaintiff with irreparable First Amendment injury by and through a defaulted "claim-processing" avenue of rule(s) as set forth within official BOP policies, to wit; [Program State-ments] 5270.09 and 1330.18, which in fact constitutes an ultra-vires application of sanctioning authority which has in fact resulted with an 'obstruction of justice' upon Plaintiff's 28 USC § 2255(h) claims submitted, which were obviously inadequate and ineffective filings within the Eighth Circuit Court of Appeals resulting from this highly irregular stumblingblock which is in fact contrary to clearly established federal law as set forth by North Carolina v. Pearce, supra, of (1969).

Please take judicial Notice as well, that the 300 minutes of phone call time that was stolen from Plaintiff by the USA/BOP Defendant(s) as a sanction for the governemtnally proffered 305 shot upon the bogus "incident report" resulting in depriving Plaintiff of calling his elderly mother during that time frame and of which she later passed away prior to the filing of the initial complaint, which thereby left Plaintiff with absolutely no way to speak to his mother even if unlimited pre-paid calling minutes were provided to Plaintiff between the (BP-11) denial

and the filing of this complaint, thereby resulted with the irreparable injury under the First Amendment.

Additionally, this stumblingblock, obstruction and impediment also adversely affected a Federal Tort claim action within the exhaustion processes of the Federal court(s) regarding a previously and "timely" filed loss of 'personal property' claim which is essentially an ipso-facto act of conspiracy against one's rights regarding well established Federal 'appellate' and "claim-processing" avenues of rule(s) by and through harassment and retaliation against Plaintiff for filing the aforementioned Tort claim, which at that time, was being properly appealed in and through the court(s) legal "claim-processing" avenue of rule(s) and of which later also became ineffectively "exhausted" on October 5, 2015 which this very Court rendered a cert denial upon that Gary Flute, Sr. v. United States petition for case number 15-10118 and the instant obstruction(s) by the USA/BOP Defendant(s) effectively blocked Plaintiff's access to the court on that issue (with this particular affirmative governmental action, along with the other four complaints also filed on July 7, 2017) whereupon those complicit acts by the USA/BOP Defendant(s) became a very effective blockade of getting that particular Tort action to be resubmitted as amended and directed by the U.S. Magistrate court as set forth within that court(s) particular dismissal, which was dismissed without prejudice and when this U.S. Supreme Court denied cert without anything further, it clearly provided the Plaintiff with a cognizable Ex Parte Abernathy, supra, (1946) avenue of processing, an avenue of which has in fact been denied to Plaintiff. "Refusal of writ, without more, is not an adjudication on the merits and is to be taken as without prejudice to an application to any other court for the relief sought."

These court(s) have relied upon statute 28 USC § 1915A(a) in order to effect a dismissal and they essentially declared by implication, that the U.S. Supreme Court doctrines that Plaintiff relied upon to make all the underlying claims "are legally frivolous." These lower court(s) have also improperly presented their

opinions upon the matter and did so under 1915A(a), when the law does not permit them to do so, unless of course, jurisdiction under the statute invoked by Plaintiff upon the face of his complaint had been assumed by the court(s), which they haven't done, therefore any of those court(s) publicly proffered opinions is in fact legally frivolous as a matter of clearly established Federal law. See Bell v. Hood, supra, (1946).

Also, when in fact the violation of a legal interest that clearly does exist, and is not then permitted to proceed on into discovery, does give the appearance of USA/BOP Defendant(s) advocacy and is contrary to clearly established Tenth Circuit precedent on that issue and the U.S. Supreme Court doctrine that Plaintiff uses to show the legal interest, have been totally and absolutely ignored by the lower court(s) because of Circuit court precedent, as Plaintiff relied upon the following: Harlow v. Fitzgerald, supra, (1982)(Defendants have violated clearly established statutory or constitutional rights of which a reasonable person would have known) and (discovery should have been allowed); Butz v. Economou, supra, (1978)(All officers of the government, from the highest to the lowest, are creatures of the law, and are bound to obey it); Landgraf v. USI Film Products, et al., supra, (1994)(at headnotes 6, 16a and 16b); Smith v. Wade, supra, (1980)(regarding 'reckless or callous indifference' resulting in punitive damages) and see also Scher v. Engelke, 8th Cir. 1991), supra, (regarding 'repeated cell searches and cell being left in disarray' after search); Reynolds v. United States, supra, (2012)(Registration requirements...held not to apply to pre-Act offenders until so specified validly by United States Attorney General); Hunter v. Hydrick, supra, (2009) as a result of Hydrick v. Hunter, supra, (2005)(The watchword of the Fourth Amendment in every context is reasonableness) and (A person subjects another to the deprivation of a constitutional right...if that person does an affirmative act, participates in another's affirmative acts, or omits to perform an act which that person is legally required to do that causes the deprivation

of which complaint is made); Zamiara, et al. v. King, supra, (2016) as resulting from King v. Zamiara, (6th Cir. 2012), supra, (The U.S. Court of Appeals for the Sixth Circuit holds that 42 USCS § 1997e(e) does not foreclose claims that allege violations of First Amendment - protected rights as injuries); see also King v. Zamiara, supra, (A First Amendment retaliation plaintiff bears the burden of establishing by a preponderance of the evidence); and see also Kontrick v. Ryan, supra, (2004) regarding "claim-processing" rules and Bowles v. Russell, supra, (2007) regarding claim-processing rules being held to be "mandatory and jurisdictional."

Therefore, even if Plaintiff didn't make a claim as required by this Tenth Circuit, to be technically acceptable to them or even if Plaintiff made an arguable claim that has not been ordered by the courts for the Defendant(s) to respond to, USA/BOP Defendant(s) here, have definately been relieved of their burden to show that there is no genuine issue of material fact involved in order for Plaintiff's claims not to reach the discovery stage and the instant underlying dismissal(s) are very clearly contrary to clearly established federal law on that matter under the U.S. Supreme Court's Greenlaw v. United States, supra, (2008) doctrine.

REASONS FOR GRANTING THE PETITION

The lower Federal court(s) underlying this particular process are and have been requiring prisoner/Plaintiff to plead everything just like an educated/learned attorney would and in so doing, have totally disregarded all of the wrong-doings and errors of USA/BOP Defendant(s) that have and do effect the substantial rights of the Plaintiff and they also require Plaintiff to explain in extraordinary detail as to why an underlying and errorneous decision has caused Plaintiff harm, when that is in fact quite obvious, or atleast within the entire context of all five civil rights action(s) filed on July 7, 2017 and it should be sufficient when the U.S. District Court's "Nature of the case" declaration within that amended complaint is taken into consideration as filed, even though Plaintiff may or may not have pled everything within the case as the court(s) here have required or even if Plaintiff forgot to specifically plead the First Amendment violation as the Tenth Circuit Court of Appeals has stated upon its January 25, 2018 opinion, but that is one of the reason(s) that Plaintiff asked for a (90-day) extension to file the amended complaint whereupon Plaintiff was Granted only (60-days), but in light of the claims made by Plaintiff, a First Amendment claim has been sufficiently stated under the "liberal construction" and "preponderance of the evidence" standards as Plaintiff has set forth within his "Notice of Appeal" to that Court of Appeals and if not, that was one of the main reason(s) for requesting an appointment of legal counsel, so that this legitimate complaint could be properly prosecuted like that of the Zamiara v. King, doctrine.

This particular panel of Circuit Judges have refused to adjudicate Plaintiff's request for counsel matter, even though Plaintiff has requested legal counsel to be appointed in order to properly, adequately or effectively prosecute this valid complaint considering that fact that an open Motion for legal

counsel as filed with the U.S. Magistrate court had not been considered by the U.S. Magistrate or District court Judges and that had been sought due to all of the technical aspects of what all these Circuit court(s) require "prisoners" filings upon governmental wrong-doings to be and that request by Motion had been made in light of the fact that these USA/BOP Defendant(s) had been represented by legal advisors/counsel and Union representative(s) every step of the way through out the underlying Administrative Remedy process and the underlying dismissal(s) are very clearly USA/BOP advocacy motivated as the courts have continuously misconstrued or misapplied this Court's "liberal construction" standard for "prisoners" by enforcing the Circuit's heightened pleading standard even though that particular "liberal construction" standard has been continuously reaffirmed over the years by and through a long line of clearly established federal law on that subject since Haines v. Kerner, supra, (1972) and these Circuit court(s) have in fact unfairly bound prisoner to a stricter legal standard on all of Plaintiff's pleadings, when in fact, under current precedent, Plaintiff has met the burden of proof upon the pleadings by and through the "preponderance of the evidence" standard whereupon it is enough to plead that prisoner had been treated differently than other similarly situated prisoners or that Defendant(s) implemented a First Amendment violation when others with the same type of alleged shot, had sanction(s) put on the shelf for a period of time before being dismissed and prior to the imposition of sanctions upon them.

Plaintiff's particular pleading of First Amendment violation should be enough considering the fact that one court within one of Plaintiff's previous actions had held it so. For instance, on September 16, 2005 the Plaintiff filed a Discrimination complaint against certain USA/BOP Defendant(s) while imprisoned at (USP-McCreary) of Pine Knot, Ky., for depriving Plaintiff visits with a certain female individual that was requesting visits with Plaintiff and where one of the main driving forces

of that denial had been then, Assistant Warden Sara M. Revell, even though that info hadn't been known to Plaintiff until long after discovery documents had been provided to Plaintiff for his inspection, whereupon the U.S. Attorney that represented Defendant(s) in that action, provided Plaintiff a document that had the signature of Asst. Warden Sara M. Revell on it, to deny all visits with this particular visitor's request (visits that were later and by no means or fault of this particular 2005 action, were permitted by staff in 2009 to take place while imprisoned at USP-Marion of Marion, Ill.;). Now, within the instant and underlying Administrative Remedy process, Plaintiff is now up against the exact same driving force that denied Plaintiff visits in 2005, when that USA/BOP driving force is now the North Central Regional Office's Director, Ms. Sara M. Revell.

Regardless, upon (page 4 of 6) of that particular 2006 U.S. District Court action, Judge Caldwell stated upon her MEMORANDUM AND ORDER (which for one reason or another, was not recommended for publication) of Civ. Action No. (05-CV-506-KKC), and in pertinent part here, was as follows:

"The Plaintiff having alleged that the BOP's refusal to permit him visitation privileges with Miss Griffith is violative of his First Amendment rights, amounts to cruel and unusual punishment because it means 372 months in prison without visitors, and constitutes discrimination, as "other inmates" have been able to put new people on their visitation lists; the plaintiff having demonstrated exhaustion of the BOP Administrative Remedy process with regard to this issue. IT IS HEREBY ORDERED as follows: (1) The Plaintiff's motion to proceed in forma pauperis is denied as moot."

Just prior to that (page 4) declaration, Judge Caldwell declares upon (page 1 of 6) of that very MEMORANDUM, that: "Although he originally filed a motion to proceed in forma pauperis, he later paid the district court filing fee, so the motion will be denied as moot." One other thing, on May 4, 2006, that very same court GRANTED Plaintiff IFP status on appeal and the U.S. Supreme Court petition as filed by Plaintiff on that

action from outside the jurisdiction of where the violation(s) had occurred whereupon the U.S. District court that did have the personal jurisdiction to hear the case was no longer applicable there and the action was later denied in 2007 after the Plaintiff's involuntary transfer to (USP-Marion) from (USP-McCreary) where even more obstruction(s) upon the claim's legal processes did occur.

Nevertheless, no strikes should have been attached with that particular action of 2006 due to the fact that the BOP's "exception" to the visitation process had never been adjudicated by the courts there and that "exception" had never even been addressed by the Defendant(s) legal counsel there and considering the fact that no amendment(s) as a matter of course as declared by the Federal Rules of Civil Procedure(s) had been permitted by the court(s) there within other actions of Plaintiff while in Illinois, which was then (and now), contrary to other inmate actions as filed within the courts there nor were there any USM-285 Forms provided to Plaintiff for servicing and there hasn't been any independent determination into that "strikes" issue by the underlying Federal court(s) within this particular action and therefore, that particular issue is in fact irrelevant here and no "strikes" should have attached.

One final thing. The day that Plaintiff filed the initial (five) complaint(s), it was filed along with an Affidavit in Support pursuant the requisite Federal Rule of Civil Procedure as required when seeking a restraining order against a governmental employee which has quite obviously been ignored by the lower Federal courts. Even so, upon that properly filed legal document, which was typed up in the middle of May that year sometime and when the complaint(s) were all typed up and the Plaintiff felt that they had to be filed when they were due to time limitation(s), but within that hurried filing, Plaintiff found out much later that the dollar amounts that had been declared to be sent as \$350.00, \$350.00, \$350.00, \$100.00 and \$100.00, were not able to be sent at that time and on July 7, 2017, when the complaint(s) had been typed up, those amounts

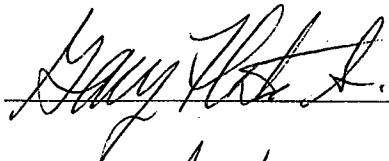
had to be changed to \$350.00, \$350.00, \$100.00, \$100.00 and \$100.00, which has all been paid by and through Plaintiff's "trust" monies that Plaintiff acquired upon the death of his Father in January of 2014 and whereupon those land interest(s) had to be sold by and through the Cobell Land-Buy-Back program, and these monies had been accepted by the U.S. District Court here as the filing fee(s) and of which then rearranged as to how the monies were going to be paid, since the filing fee(s) had been raised to \$400.00 per action since Plaintiff last had to file something in this court the previous year.

In any instance though, that particular court determined which case was to be paid \$400.00 and \$400.00, with the other three cases being paid \$100.00 each whereof which two of the latter three \$100.00 cases have not even been provided a case number, atleast nothing that Plaintiff had to be provided of which prevents Plaintiff from appealing either of those orders if they are to be adverse to Plaintiff.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: April 2nd, 2018