

No.:

IN THE
SUPREME COURT OF THE UNITED STATES

Dwayne Giles -- Petitioner

VS.

Tom Felker et al. -- Respondent(s)

APPLICATION FOR EXTENSION OF TIME TO FILE FOR
A WRIT OF CERTIORARI

TO THE HONORABLE CHIEF JUSTICE, JOHN ROBERTS:

Petitioner Dwayne Giles hereby moves for an order to extend time to file a Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

At all times during the lower court's proceedings Petitioner has been allowed to proceed *informa pauperis*.

This action arises under the Eighth Amendment of the United States Constitution pursuant to 42 U.S.C. § 1983, 1915, 1915A, 1997e, and Federal Rules of Civil Procedure.

The basis of the writ of certiorari raises important questions to the Prison Litigation Reform Act of 1995, as to whether procedural due process rights afforded to an inmate during and after an initial screening includes exhaustion being excused, when such issue is on the face of the initial complaint?

The complexity of the issues to be presented are complicated and extensive, requiring alot of legal research and studies that Petitioner has been limited access to. Petitioner is proceeding informa pauperis and incarcerated, which has prevented his necessary access to law-library studies to conduct reasonable work.

STATEMENT OF FACTS

On April 21, 2017, the United States Court of Appeals affirmed Petitioner's case, dismissing his complaint on grounds of a procedural defect, in initiating his 42 § 1983 before exhaustion was completed.

On December 7, 2017, a petition for rehearing was denied in the Ninth Circuit Court of Appeals.

At this time, the date to file for a Writ of Certiorari is due on March 7, 2018.

Petitioner request for Sixty days extension to file his petition for a Writ of Certiorari to allow him reasonable time to overcome extraordinary circumstances, which has abruptly prevented adequate research necessary to complete his petition within the prescribed time provision.

AFFIDAVIT OF DWAYNE GILES

I, Dwayne Giles being first duly sworn, depose and say that I am the Petitioner/Plaintiff, in the above-entitled case;

1. The complexities to the legal questions involve the following: (1)

does the PLRA require the district court to screen a prisoner case on exhaustion requirment, when an issue exist on the face on the

complaint; (2) Petitioner filed a declaration that his administrative remedies were being impeded; (3) does Petitioner's exhausted grievance about prison lock-down program restrictions meet due process

standards when all issues of his complaint, were premised on extended lockdowns, that restricted all prison activities, and accepted on the merits of the lockdown-program by prison officials; and (13) does the federal rules of civil procedure, rule 15(a) extends to the PLRA to allow prisoners to cure a procedural defect on exhaustion;

2. I am currently preparing a petition to the United States Supreme Court for a writ of certiorari without assistance of an attorney;

3. I am currently incarcerated in a California State Prison in San Luis Obispo;

4. I have suffered irreparable injuries in relation to my constitutional violation claims;

5. I have been a chronic-pain patient and prescribed medication three times a day for the past six and a half years;

6. At times, I am attempting to function daily while under medication which causes me to suffer impairments;

7. prison law-library access is restricted to ninety minutes four-days a week;

8. legal material needed to study and research is limited and shared with other inmates has prevented me from reasonable access to legal research in the prison law library; and

9. I believe sixty days will allow me sufficient time to complete and file my petition for a Writ of Certiorari by May 7, 2018.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: February 26, 2018

Dwayne Giles

DWAYNE GILES