No. 25-5586

IN THE

SUPREME COURT OF THE UNITED STATES

Mr. David Priest — PETITIONER
(Your Name)

vs.

Martin Kuersten, et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Mr. David Priest [CDCR no. D-61650]
(Your Name)

P.O. Box 5248 [A-3 / 3-6 low]
(Address)

Corcoran, CA 93212
(City, State, Zip Code)

No phone in ability
(Phone Number)

QUESTION(S) PRESENTED

ARE PRO SE INMATE LITIGANTS HELD TO THE SAME LEGAL STANDARD THAT A LAWYER IS HELD?

WAS THE PLAINTIFF GIVEN PROPER NOTICE OF HIS NEED TO RAISE HIS ISSUE(S) WITH JUDGES DECISIONS IN DISTRICT COURT BEFORE APPEAL ?

DID DISTRICT COURT ABUSE HIS DISCRETION IN DISCOVERY RULINGS ?

LIST OF PARTIES

[X] 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:

RELATED CASES

TABLE OF AUTHORITIES CITED

CASES

STATUTES AND RULES

OTHER

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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 _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.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,
[X] is unpublished.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[ ] is unpublished.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[ ] is unpublished.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 Febraey 26, 2025.

[ ] No petition for rehearing was timely filed in my case.

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: May 30, 2025, and a copy of the order denying rehearing appears at Appendix D.

[ ] 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

Eighth amendment . deliberate Indifference to Incarcerated Person's Medical needs;

Fourteenth Amendment right to Due Process and Equal Protection under the Law, pertaining to rules of Discovery under Prison Litigation Reform Act.

First Amendment Right to Regress of grievance, in the form of appeal to the Court of Appeal as a matter of right, under the Law.

Title 42 usca § 1983; Federal Rules of Civil Procedure rule 26 and 34; Federal Rules of Evidnce rule 502; and Federal Rules of Appellate Procedure rule 4 (Appeal as of right.

STATEMENT OF THE CASE

Appellant/Plaintiff, filed a 1983 civil suit 01/11/2021 against defendants Bentley, C. Cryer, Martin Kuersten, and Nurse Sanchez. Alleging an eighth amendment violation by defendants' failure to provide both proper medical diagnosis/treatment. And transferring Plaintiff who was known by defendant's to be unable to walk and/or sit-up under his own power.

Plaintiff filed a motion to conduct discovery for 12 months, on 08/02/2021 [DOC.25]. Discovery motion was summarily denied without opposition. [Doc 26] See Court Docket Appendix F

Court then opened discovery for 4 months, setting time for defendants' to respond to discovery requests at 45 days. [Doc. 28] 09/24/2021.

On 10/21.2021, plaintiff filed both Motion to Compel and motion for Extention of time for discovery. [Docs 31, 32]. Appendix F

On 11/12/2021, defendants' file a motion wanting only a four month extension of time to conduct discovery. [Doc 36]. Appendix F

On 12/07/2021, the court granted the defendants 4 month time extension and denied plaintiff request for emails by and to Defendants' regarding Plaintiff as be too broad. "No time Table stated in Request" [doc 37].

On 01/13/2022, Plaintiff filed both a motion for Extension of time and motion for Sanctions, for defendants' failure to turnover emails created by or sent to the defendants, during the timeframe of the current events of this law suit, regarding Plaintiff medical condition. [Docs 39, 40]. Appendix F

On 02/03/22, defendants' counsel claimed without offering or the court demanding submitting of a privilege log, that all emails were PRIVILEGED. [Doc 41]. Appendix F

On 03/01/2022, court denied both motion for Sanctions and Extension of time. [Doc 45]. Appendix F

On 03/21/2022, Plaintiff filed both motions for Appointment of Counsel and to Reopen Discovery, [Docs 46, 47]. Appendix F

On 04/11/2022, defendants' filed joint Opposition motions, [Docs 48, 49].

On 05/12/2022, Court denied both motion to Reopen Discovery and for Appointment of Counsel. [Doc 50] Noting Plaintiff was confine to a

hospital bed unable to sit up pursuant to POST-OPERATION recovery from Spine/Back surgery.

ON 11/02/2022 court issued FINDING & RECOMMENDATIONS [Doc 70]. see APP040

On 12/27/2022, Plaintiff submitted OBJECTIONS to FINDINGS [Doc 77]. APP041 Wherein Plaintiff inpart complained about the Court's failure to Require defendants' to present to the court the required PRIVILEGE LODGE/VAUGH INTEX.

On 02/08/2023, District court ADOPTED Findings and Recommendations. [Doc 81]. APP042

On 03/08/2023, Plaintiff APPEALED ORDER, [Doc 84]. APP042

Notice of Appeal filed in error, Dismissed By Circuit Court, on 04/04/2023, [doc 90]. APP043

On 04/26/2023, plaintiff filed motion to Stay Proceedings, due to enability to sit-up, stand or left head Post Op recovery. [Doc 91] APP043

On 05/25/2023 court denied motion for stay order OBJECTIONS to Findings and Recommendations filed in 30 days. [Doc 93] APP043

On 06/27/2023, Plaintiff filed MOTION FOR RECONSIDERATION APPOINTMENT OF COUNSEL & MOTION FOR SIX MONTH EXTENSION OF TIME to file Objections. [Doc 94] APP043

On 07/21/2023, court issued order DENYING Appointment of Counsel. But GRANTING 6 month extension of time. [Doc 95] APP043

On 01/16/2024, Plaintiff filed OBJECTIONS TO COURT'S FINDINGS. [Doc 97]

On 02/06/2024, court ADOPTED Findings and Recommendations IN FULL [Doc 98] APP044

On 02/20/2024, Plaintiff filed a NOTICE OF APPEAL [Doc 100]. APP044

Appellant filed a Informal Opening Brief before the ninth Circuit Court of Appeal, Dated 08/18/2024.

Appellees filed motion for summary Affirmance dated 12/12/2024, claiming that the claim rised in Opening Brief was not rised in the district court. And thus the appeal should be dismissed.

REASONS FOR GRANTING THE PETITION

TECHNICAL MISTAKES SHOULD NOT BE USED TO BAR PRO-SE INMATE LITIGANTS FROM REDRESS OF THE GREIVANCES.

STATE ACTORS SHOULD NOT BE ALLOWED TO USE THE PRESTEGE OF THE OFFICE TO AVOID COPLIANCE TO THE LAW.

COURTS SHOULD NEVER ACCEPT AND FURTHER LEGAL DEFENSES THAT ARE IMPLUSIBLE AND UNSUPPORTED BY FACTS.

The central issue in this case is the whether the defendants raised a legitimate defense of there only being "Privileged Emails". And as such the court was correct in denial of plaintiff's motion to compel. [Docs 31-45] See Appendix G Letter in Response to Request for Production, under rule 26 et seq. APP 046 lns 21-25; APP 047, lns 1-8

In Appellees MOTION FOR SUMMARY AFFIRMANCE THEIR CENTRAL CLAIM was that Appellant could not be allowed to raise claim of court's error for the first time, on appeal.

But in fact, Appellant did raise the issue of court's failure to follow the law and rules as they are on examining the claim of Attorney-Client privilege. See OBJECTIONS[97] page 3 lines 13-28, Page 4 lines 1-28. And I quote in part:

> "Unresolved claims, such as the present issue on emails, claims of privilege should be presented directly to the judge for a ruling; if necessary, the judge can review the disputed information in camara. see MOORE'S Practice - Civil § 11.431. It goes without saying that none of these mandates were followed by the maistrate in her ruling on discovery disputes. [citation out of Objections]

Appellees mischaracterize, the then Plaintiff's issue in the motion to compel proceedings as "faults the court for not conducting an in camera review of unidentified e-mails concerning his treatment or injury (which e-mails do not exist)." Introduction p. 1 lns. 10-12.

Appellees, by and through there attorney are the ones who advanced

the impossible claim that no defendants had any "Non-privileged e-mails". Such being the case the Appellant informed the court that the court was required to LOOK at the alleged privileged e-mails, and assertain in camera review whether they fall within said privilege group. Note DOM states that all email are property of CDCR. AA049 Appellees go further in the Affirmance Motion to state that "Priest also does not cite any district court discovery ruling or explain how any such rulings might have impacted the outcome of the case, much less asserted any abuse of the district court's wide discretion concerning discovery." Introduction p. 1, lns. 12-15.

First of all, the court NEVER required the defendants and their attorney to submit their responses to the Request For Production of the emails under the penalty of perjury. As is required under Federal Rule 34. Then the court accepted the unsupported claim of nonexisted medical related emails, without certification of a search of CDCR computer banks.

Is the idea that Medical Professional with email accounts don't used the email account to consult with each other?

And as a matter of fact, Appellant specifically, cited in motion to compel, the district court motion objecting to dismissal and the 9th Circuit Opening Brief, that the "emails being hidden" contained "STATE OF MIND" evidence. The very thing that the district court commented was lacking in the case at bar.

Which is why everybody wants to get as far as they can away from this action.

Attorney Kyle Lewis, legal counsel for the defendant submitted an affidavit, in support of an extension of time to file Reply Brief, in the Ninth Circuit. In this affidavit we learnt that Mr. Lewis is both Supervising Training Deputy Attorney General and Lead Deputy Attorney General on one of the Largest Data Breach cases, in this state's history. And we (the people) commend him

on his work, on behalf of the people of this great state and the Union that we are all a part of.

That being said, Mr. Lewis plays with the facts of these proceedings very loose.

Counsel for respondents that discovery process is discretionary on judges' rulings. And that Appellant "waived any Merits-Based Challenges Concerning Defendant's Supplemental Motion for Summary Judgment."

First the court is REQUIRED to enforce the mandatory rules of Discovery. Case in point:

Plaintiff's request for all emails sent to or created by the Defendants between the years 2018-2021, concerning David Preist. [See Request for Production set two and Appendix G]. APP 046 lns 21-25

After Respondent advanced the UNSUPPORTED claim that no "Non-Privileged emails existed. Plaintiff filed a motion to Compel. [doc 53] In this motion plaintiff specifically in writing and in accordance with case and rule citation, motioned the court have the Respondents CERTIFY a search of all CDCR servers under the SEDONA PRINCPALS. PURSUANT FRCP 34(b)(2), Peskoff v. Faber, 240 F.R.D. 26 (Defendant was required to file statement under oath by person who actually conducted search.) see also Consolidated Rendering Co. v. Vermont, 207 U.S. 541. APP 049 state emails are subject to discovery lns 30-36

Lastly, we need only to look at the FACT that the COURT, though repeatedly ask to require the defendants to at the very least to submit a privilege log. And when the court failed to even address this fundamental rule of discovery. Plaintiff was satisfied that court was firmly in the Respondent's camp.

This writ now before the court hinges on the IDEA that Petitioner did all he could to advance the premise that the Respondent was hiding evidence of the defendants' state of mind, during the controversy then being litigated. And that First the Magistrate, then the District Judge and finally the Justices of the Court of Appeals, all failed to hold the respondent to any kind of legal accountability.

Here's the email argument in a nutshell. Historically EMAIL TECHNOLOGY was created by developers, orginally to transfer ONLY medical data, from one medical facility to another. It was later put out in the Worldwide Web, for any and everybody to use.

As far as the parties in this case are concerned. Respondent counsel advances the claim that there were NEVER any emails used by defendants constituting "non-privileged" emails. Though each defendant had a work only email address.

And all the court's reasoning and ultimate finding related to emails, failed to require this claim be supported by any CERTIFIED search of CDCR data banks and Affidavits in response to Production Requests.

The Defendant/Appellees defense continues to be that my technical mistakes waived my right to rise this issue on appeal.
This is even though Plaintiff is on record over and over again requesting an explanation under the law as to why defendants were not required to supply "PROOF OF CLAIM".

See; Erikson v. Pardus, 551 U. S. 89, 94 (A pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers. FRCP 8(f).)

And though the Erikson case deals with the initial complaint. When searching the opening phrase "document filed pro se is to liberally construed..."

We fine that courts apply this liberal construed standard to all documents. Especially when deciding whether a party has waived Oppostion to opposing party's claims or defenses.

See U.S. v. Collins, 2024 U. S. App. LEXIS 25012. (In light of the facts of the case oppostion would be seen as frivolous)

Yenokian v. Banks, 2024 U.S. Dist. LEXIS 67058 (Oppostion to Discovery)

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

David Priest

Mr. David Priest, Pro Se

Date: 7/30/25