

(ORDER LIST: 562 U.S.)

MONDAY, OCTOBER 18, 2010

ORDERS IN PENDING CASES

10M37 TINSLEY, RUSSELL V. GIORLA, WARDEN, ET AL.

The motion to direct the Clerk to file a petition for a writ of certiorari out of time is denied.

10M38 IN RE GRAND JURY PROCEEDINGS

The motion of Reporters Committee for Freedom of the Press for leave to intervene is denied. The motion for leave to file a petition for a writ of certiorari under seal with redacted copies for the public record is granted.

10M39 DUNKLEY, KEITH V. MELLON INVESTOR SERVICES, ET AL.

The motion to direct the Clerk to file a petition for a writ of certiorari out of time is denied.

10M40 RODRIGUEZ, HENRY Z. V. UNITED STATES

The motion for leave to file a petition for a writ of certiorari under seal with redacted copies for the public record is granted.

10M41 MORRISON, WINSTON G. V. UNITED STATES

The motion to direct the Clerk to file a petition for a writ of certiorari out of time is denied.

137, ORIG. MONTANA V. WYOMING, ET AL.

Montana's motion for partial summary judgment is granted in part and denied in part without prejudice in accordance with the Special Master's First Interim Report, and Anadarko Petroleum's

motion for leave to intervene is denied. Justice Kagan took no part in the consideration or decision of these motions.

08-1314 WILLIAMSON, DELBERT, ET AL. V. MAZDA MOTOR OF AMERICA, ET AL.

08-1438 SOSSAMON, HARVEY L. V. TEXAS, ET AL.

The motions of the Acting Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument are granted. Justice Kagan took no part in the consideration or decision of these motions.

10-5898 PARKER, YOLANDA V. POTTER, NANCY

10-5967 HAMMANN, JERALD A. V. FALLS/PINNACLE, LLC, ET AL.

10-6205 THYKKUTTATHIL, JOB, ET UX. V. UNITED STATES

10-6370 IN RE EDWARD STARLING

The motions of petitioners for leave to proceed *in forma pauperis* are denied. Petitioners are allowed until November 8, 2010, within which to pay the docketing fees required by Rule 38(a) and to submit petitions in compliance with Rule 33.1 of the Rules of this Court.

CERTIORARI GRANTED

10-98 ASHCROFT, JOHN D. V. AL-KIDD, ABDULLAH

The petition for a writ of certiorari is granted limited to Questions 1 and 2 presented by the petition. Justice Kagan took no part in the consideration or decision of this petition.

CERTIORARI DENIED

09-920 SIMMONS, PAUL, ET AL. V. GALVIN, WILLIAM F.

09-1539 WILKES, DANIEL R. V. INDIANA

09-10417 WADE, JIMMY J. V. THALER, DIR., TX DCJ

09-10985 LOPEZ, JOSE V. UNITED STATES

09-11277 GAEDTKE, WAYNE B. V. McNEIL, SEC., FL DOC, ET AL.

09-11346 JONES, KELVIN M. V. UNITED STATES
09-11360 RODRIGUEZ, ALFONSO V. UNITED STATES
09-11364 ALLMON, JULIAN V. UNITED STATES
10-33 SUQUAMISH INDIAN TRIBE V. UPPER SKAGIT INDIAN TRIBE
10-37 HALL, MICHAEL V. THALER, DIR., TX DCJ
10-79 METRO FUEL LLC V. NEW YORK, NY
10-92 SAHYERS, CHRISTINE V. PRUGH, HOLLIDAY, ET AL.
10-135 HUDSON, B. R. V. SCARBRO, HILARIE G.
10-200 FITZGIBBONS, JOHN E. V. ZEMAN, SALLY J.
10-223 PHILLIPS, PHILIP R. V. THALER, DIR., TX DCJ
10-227 SCHNELLER, JAMES D. V. PROSPECT PARK NURSING & REHAB.
10-232 BANK OF NY MELLON, ET AL. V. GREDE, FREDERICK J.
10-261 TRUHLAR, KENNETH T. V. USPS, ET AL.
10-265 FLESZAR, JANICE M. V. DEPT. OF LABOR
10-287 INNOVATIVE THERAPIES, INC. V. KINETIC CONCEPTS, INC., ET AL.
10-340 JACKIM, BRUCE V. OHIO
10-352 RICHARDSON, THOMAS M. V. UNITED STATES
10-353 CRASE, KATHERINE V. UNITED STATES
10-362 BAILEY, GERALD O., ET AL. V. SHELL WESTERN E&P INC., ET AL.
10-380 TERRA XXI, LTD., ET AL. V. AG ACCEPTANCE CORP., ET AL.
10-5584 CROPPER, LEROY D. V. ARIZONA
10-5870 SONG, YOUNG B. V. SMITH, BENJAMIN, ET AL.
10-5872 SMITH, PAUL A. V. CONDER, GARY, ET AL.
10-5873 ROSENDAHL, ROLF A. V. NIXON, GOV. OF MO, ET AL.
10-5880 COSTA, BERNARDO V. MISSOURI
10-5881 CANTEY, JACQUELINE E. V. OHIO
10-5888 ORSELLO, PAUL V. GAFFNEY, STEVEN, ET AL.
10-5900 WILSON, DAVID W. V. ZAFRA, L. M., ET AL.

10-5901 WILLIAMS, THELMA V. FREE, L., ET AL.
10-5904 TINSLEY, JAMES D. V. DAVIS, SHERIFF, ET AL.
10-5914 KIRKPATRICK, THOMAS L. V. HALL, WARDEN
10-5917 LAURENCE, NANETTE V. GATEWAY HEALTH SYSTEM
10-5919 MARS, MARK R. V. ILLINOIS
10-5920 DRUMMOND, TYRONE V. DELAWARE
10-5925 ALLEMAN, LAWRENCE E. V. KENTUCKY
10-5931 WILSON, DAVID W. V. HUBBARD, SUZAN, ET AL.
10-5935 EVERETT, JAMES V. WALSH, SUPT., DALLAS, ET AL.
10-5936 WILLIAMSON, KELROY V. MARYLAND
10-5943 MERCADO, ANGEL V. ILLINOIS
10-5944 McCLINE, TERRY V. EPPS, COMM'R, MS DOC
10-5948 STRICKLAND, LISA V. SAINT LUKE'S HEALTH SYSTEM
10-5949 SPISAK, JOHN S. V. NEVADA
10-5953 STARKS, RICKY V. TEXAS
10-5958 COCHRANE, STEPHAN V. SCUTT, WARDEN
10-5960 CAMPANILE, THOMAS F. V. NICOLELLA, PHYLLIS C.
10-5964 BROWN, KINGSLEY V. NEW YORK
10-5965 BARGHOUTI, JAMAL V. ILLINOIS
10-5969 HYDE, STEVEN L. V. VALDEZ, PHILLIP
10-5971 TOWNSEND, CLAUDE V. TOWNSEND, KARLA
10-5972 BLACKMER, PAUL V. SWEAT, DWAYNE, ET AL.
10-5975 STYLES, KENNETH V. JOHNSON, DIR., VA DOC
10-5977 STAPLEY, GEORGE I. V. MISSISSIPPI BAR, ET AL.
10-5978 DeVEAUX, BERNARD V. BRESLIN, SUPT., ARTHUR KILL
10-5983 MATTHEWS, ECCLESIASTES M. V. PURKETT, SUPT., EASTERN
10-5984 SAULA-RIVERA, MILTON H. V. PENNSYLVANIA
10-5985 TRICE, GERALDINE V. CLARK COUNTY SCH. DIST., ET AL.

10-5989 WHITE, ELIZABETH C. V. ARNOLD, JENNIFER, ET AL.
10-5991 PETITIONER G V. BROWN, BRIDGET S.
10-5993 DAVIS, PATRICK D. V. THALER, DIR., TX DCJ
10-5996 HANCOCK, JOSEPH G. V. BROWN, ATT'Y GEN. OF CA, ET AL.
10-5997 HARTSCH, CISCO J. V. CALIFORNIA
10-6007 DAVIS, TERRANCE L. V. TENNESSEE
10-6008 WILLIAMSON, KAREN V. WALKER, JOE
10-6009 CLEM, JASON R. V. JOHNSON, DIR., VA DOC
10-6052 PHILLIPS, CLIFTON V. ROCK, SUPT., UPSTATE
10-6096 GREER, RANDOLPH M. V. THALER, DIR., TX DCJ
10-6107 CHOY, FRANCES V. MASSACHUSETTS
10-6119 TINSLEY, ELDON G. V. DENNY, WARDEN
10-6120 WINNETT, DONALD V. SALINE COUNTY JAIL, ET AL.
10-6121 THOMAS, MELVIN J. V. SISTO, WARDEN
10-6147 HALL, PARNEAL T. V. OLLISON, WARDEN
10-6150 FOREMAN, VINCENT L. V. JOHNSON, DIR., VA DOC
10-6151 HAUPT, REGINALD C. V. BROWN, WARDEN
10-6154 HANSON, KWEKU V. CONNECTICUT
10-6164 POPA, MIHAELA I. V. PRICEWATERHOUSECOOPERS LLP
10-6181 MOSS, JOHN T. V. ARKANSAS
10-6199 DILLARD, ROBERT E. V. SOUTH CAROLINA
10-6227 WILLIAMS, DEBRA V. ZAVARES, EXEC. DIR., CO DOC
10-6262 McMILLON, WILLIAM V. CULLEY, SUPT., LIVINGSTON
10-6270 TURNER, JAMES V. FLORIDA
10-6276 McCLELLAN, JAMES S. V. HOBBS, DIR., AR DOC
10-6279 CRAIG, CAROL V. CALIFORNIA
10-6285 KRAY, SAP V. GLEBE, SUPT., STAFFORD CREEK
10-6336 MEARIDY, MELVIN T. V. GEORGIA

10-6338 CONTRERAS, SAUL V. TEXAS
10-6378 GONZALEZ-HURTADO, LEOPOLDO V. UNITED STATES
10-6399 WARREN, DAWAN A. V. UNITED STATES
10-6401 BROWN, JAMAL V. UNITED STATES
10-6402 ASHLEY, VAN C. V. UNITED STATES
10-6405 WATTERS, JOHN T. V. UNITED STATES
10-6407 LEWIS, GLEN V. UNITED STATES
10-6408 PARKER, RODNEY V. UNITED STATES
10-6409 DUNCAN, MICHAEL V. UNITED STATES
10-6410 EDWARDS, DAVID O. V. UNITED STATES
10-6413 MILLER, STEVEN E. V. UNITED STATES
10-6415 POPE, JERMEL V. UNITED STATES
10-6417 MICTAVI, SHEMTOV V. UNITED STATES
10-6418 NGUYEN, DRAKENOLD T. V. UNITED STATES
10-6419 BLADE, RONNIE V. UNITED STATES
10-6425 RODRIGUEZ, LUIS A. V. UNITED STATES
10-6428 JAMES, DONVILLE V. UNITED STATES
10-6433 WALKER, TONTE V. UNITED STATES
10-6434 JOHAL, RAJINDER S. V. UNITED STATES
10-6435 MIX, MIKAL M. V. UNITED STATES
10-6437 SMITH, ANTHONY D. V. UNITED STATES
10-6441 ZAMOT-SANTIAGO, WILLIAM V. UNITED STATES
10-6445 LAW, RODNEY V. UNITED STATES
10-6447 CRUZ-PAGUADA, RAMON E. V. UNITED STATES
10-6452 METCALF, BRADFORD V. UNITED STATES
10-6453 RAZO, LUIS V. UNITED STATES
10-6461 RAINEY, JOSEPH L. V. UNITED STATES
10-6464 RODRIGUEZ-APONTE, BENJAMIN V. UNITED STATES

10-6466 HOLMES, HAROLD J. V. UNITED STATES
10-6468 MALGOZA, MICHAEL V. UNITED STATES
10-6469 REID, JOSEPH V. UNITED STATES
10-6475 CENTENO, BRIAN R. V. UNITED STATES
10-6482 GOOL, JOHN W. V. UNITED STATES
10-6488 HINES, COREY L. V. UNITED STATES
10-6489 HINES, COREY L. V. HAYES, DAVID, ET AL.
10-6491 HEADDEN, RYAN E. V. UNITED STATES
10-6494 GREER, JAMES E. V. UNITED STATES
10-6497 HENLEY, TROY V. UNITED STATES
10-6500 EHRLICH, STEVEN V. UNITED STATES
10-6503 MINERO-REGALADO, ARMANDO V. UNITED STATES
10-6504 JACKSON, DAVID V. UNITED STATES
10-6510 SANCHEZ-LINO, RICARDO A. V. UNITED STATES
10-6511 JACKSON, LEE A. V. UNITED STATES
10-6525 HENDERSON, RICHARD L. V. UNITED STATES
10-6526 HANTON, DONALD V. UNITED STATES
10-6528 GANT, RONNIE D. V. UNITED STATES
10-6531 HAYES, KENNETH R. V. UNITED STATES
10-6533 DANG, LAN V. UNITED STATES
10-6534 CHAVEZ, ROGELIO G. V. UNITED STATES
10-6536 CEBALLOS, HEATHER M. V. UNITED STATES
10-6539 MATHIS, ROLAND V. UNITED STATES
10-6540 LEE, VAN BUREN V. UNITED STATES
10-6544 WYMES, MELVIN J. V. UNITED STATES
10-6546 RAY, EVANS V. UNITED STATES
10-6553 RICE, MICHAEL W. V. UNITED STATES
10-6557 VELASQUEZ-TORREZ, HELODORO V. UNITED STATES

10-6560 ECHERIVEL, OLGA V. UNITED STATES
 10-6561 ESQUIVEL, FRANK V. UNITED STATES
 10-6562 CRUZ-VELEZ, JOSE L. V. UNITED STATES
 10-6565 LARA, ALBERTO J. V. UNITED STATES
 10-6566 LANE, VIRGIL V. UNITED STATES
 10-6571 PARTEE, MICHAEL V. UNITED STATES
 10-6573 VALENCIA, TEOFILO R. V. UNITED STATES
 10-6575 ADESOYE, KOLEOWO A. V. UNITED STATES
 10-6578 RODRIGUEZ-HERNANDEZ, JAVIER V. UNITED STATES
 10-6581 TROTTER, MAURICE, ET AL. V. UNITED STATES
 10-6582 WILLIAMS, RALPH V. UNITED STATES
 10-6584 PERRINE, STEVEN C. V. UNITED STATES
 10-6588 ANDERSON, LEVAR J. V. UNITED STATES
 10-6589 JONES, MARCUS D. V. UNITED STATES
 10-6603 RASHAW-BEY, GEOFFREY L. V. USDC WD MO
 10-6607 SHELTON, RAYMOND V. UNITED STATES
 10-6621 CARDENAS, CHRISTOPHER J. V. UNITED STATES
 10-6622 COMPIAN, JUAN C. V. UNITED STATES

The petitions for writs of certiorari are denied.

09-1449) MEACHAM, CLIFFORD B., ET AL. V. KNOLLS ATOMIC POWER LAB., ET AL.
)
 10-36) KAPL, INC., ET AL. V. MEACHAM, CLIFFORD B., ET AL.

The petitions for writs of certiorari are denied. Justice Sotomayor took no part in the consideration or decision of these petitions.

09-10414 MATTHEWS, KENDALL J. V. UNITED STATES

The petition for a writ of certiorari is denied. Justice Kagan took no part in the consideration or decision of this petition.

10-97 LYNCH, PATRICK J., ET AL. V. NEW YORK, NY, ET AL.

10-202 WEINTRAUB, GARY N. V. BD. OF ED. OF CITY OF NY, ET AL.

The petitions for writs of certiorari are denied. Justice Sotomayor took no part in the consideration or decision of these petitions.

10-5895 DANDAR, RONALD G. V. PENNSYLVANIA

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8.

10-6025 COSIO, GEORGE V. GROUNDS, WARDEN

The petition for a writ of certiorari is denied. Justice Breyer took no part in the consideration or decision of this petition.

10-6449 WARE, ULYSSES T. V. UNITED STATES

The petition for a writ of certiorari is denied. Justice Sotomayor took no part in the consideration or decision of this petition.

10-6462 ROBINSON, RUSSELL V. UNITED STATES

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8. Justice Kagan took no part in the consideration or decision of this motion and this petition.

10-6465 RAMSEY, MELODY V. SHINSEKI, SEC. OF VA

10-6508 YOUNG, LARRY A. V. STANSBERRY, WARDEN

The motions of petitioners for leave to proceed *in forma pauperis* are denied, and the petitions for writs of certiorari are dismissed. See Rule 39.8.

10-6569 LALL, GARY V. UNITED STATES

The petition for a writ of certiorari is denied. Justice Sotomayor took no part in the consideration or decision of this petition.

10-6579 STONE, DAVID B. V. UNITED STATES

The petition for a writ of certiorari is denied. Justice Kagan took no part in the consideration or decision of this petition.

10-6613 SPERLING, HERBERT V. UNITED STATES

The petition for a writ of certiorari is denied. Justice Sotomayor took no part in the consideration or decision of this petition.

HABEAS CORPUS DENIED

10-6599 IN RE JAMES A. STAHL

The petition for a writ of habeas corpus is denied.

10-6633 IN RE GARY B. WILLIAMS

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of habeas corpus is dismissed. See Rule 39.8. Justice Kagan took no part in the consideration or decision of this motion and this petition.

MANDAMUS DENIED

10-6331 IN RE THURMAN L. PARKS

The petition for a writ of mandamus is denied.

REHEARING DENIED

09-11003 SANDRES, NAOMI V. NOLAND, JUDGE, USDC MD LA

The petition for rehearing is denied.

SOTOMAYOR, J., dissenting

SUPREME COURT OF THE UNITED STATES

ANTHONY C. PITRE *v.* NATHAN CAIN ET AL.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 09–9515. Decided October 18, 2010

The petition for a writ of certiorari is denied.

JUSTICE SOTOMAYOR, dissenting from denial of certiorari.

Petitioner Anthony Pitre, a Louisiana state prisoner, stopped taking his HIV medication to protest his transfer to a prison facility. He alleges that respondents at the facility punished him for this decision by subjecting him to hard labor in 100-degree heat. According to Pitre, respondents repeatedly denied his requests for lighter duty more appropriate to his medical condition, even after prison officials twice thought his condition sufficiently serious to rush him to an emergency room. In response to one such request, respondent Cain expressly acknowledged in a letter attached to Pitre’s complaint that Pitre was “dealing with unnecessary pain and suffering, as well as cruel and unusual punishment,” but he accused Pitre of “bringing it on himself” by refusing to take his medication. App. F to Pet. for Cert. (Exh. A-2). Cain concluded, “If you are suffering because of your own choices, so be it.” *Ibid.* As a result of respondents’ actions, Pitre alleges, his already-fragile medical condition deteriorated even further.

The courts below deemed these allegations insufficient to state an Eighth Amendment violation. The Magistrate Judge concluded that Pitre had been “hoist by his own petard,” Report and Recommendation in No. 2:08–CV–1894 (WD La., Apr. 29, 2009), p. 9, App. C to Pet. for Cert., and *sua sponte* recommended dismissing the complaint as “frivolous,” see 28 U. S. C. §1915(e)(2)(B)(i). The District Judge adopted this recommendation. Judgment in No.

SOTOMAYOR, J., dissenting

2:08–CV–1894 (WD La., May 27, 2009), App. C to Pet. for Cert. The Fifth Circuit summarily affirmed, concluding, “Mr. Pitre has been given medical care, but he refuses to take medication which results at times in physical problems. Evidence of conscious indifference is not presented.” 354 Fed. Appx. 142, 143 (2009) (*per curiam*).

The Fifth Circuit’s error in requiring Pitre to produce “evidence” in support of his allegations before a responsive pleading was filed, in and of itself, is sufficient reason to reverse the judgment below. See *Bell Atlantic Corp. v. Twombly*, 550 U. S. 544, 564, n. 8 (2007) (“[W]hen a complaint adequately states a claim, it may not be dismissed based on a district court’s assessment that the plaintiff will fail to find evidentiary support for his allegations”). More fundamentally, however, in focusing on Pitre’s own contribution to his health problems, the courts appear to have misunderstood the nature of Pitre’s Eighth Amendment claim. His *pro se* complaint and attachments thereto, “liberally construed,” *Estelle v. Gamble*, 429 U. S. 97, 106 (1976), allege not that respondents denied him medical care but that they punished him for refusing to take medication, or attempted to coerce him to take medication, by subjecting him to hard labor that they knew exceeded his medical limitations.

“The principle that a competent person has a constitutionally protected liberty interest in refusing unwanted medical treatment may be inferred from our prior decisions.”* *Cruzan v. Director, Mo. Dept. of Health*, 497 U. S. 261, 278 (1990). A prison regulation infringing an interest

* In the District Court, Pitre also claimed a liberty interest created by state law. See La. Rev. Stat. Ann. §15:860 (West 2005) (“Except as to compliance with the sanitary laws and all reasonable regulations relating to contagious and infectious diseases, any sane patient or sane inmate of the Louisiana State Penitentiary may decline any medical care or treatment offered or provided by the institution and provide other care for himself at his own expense”).

SOTOMAYOR, J., dissenting

in avoiding unwanted medication is valid if it is “‘reasonably related to legitimate penological interests.’” *Washington v. Harper*, 494 U. S. 210, 223 (1990) (quoting *Turner v. Safley*, 482 U. S. 78, 89 (1987)). We have thus held that prison officials may forcibly treat a mentally ill inmate with antipsychotic drugs “if the inmate is dangerous to himself or others and the treatment is in the inmate’s medical interest.” *Harper*, 494 U. S., at 227. We have not considered, however, whether prison officials may require inmates with HIV to take medication, such that the refusal to do so might justify the imposition of sanctions by such officials.

Even assuming respondents had a legitimate penological interest that outweighed a right to refuse HIV medication, that interest would not permit respondents to punish Pitre, or to attempt to coerce him to take medication, by subjecting him to hard labor that they knew posed “a substantial risk of serious harm.” *Farmer v. Brennan*, 511 U. S. 825, 837 (1994); see also *Hope v. Pelzer*, 536 U. S. 730, 738 (2002). To determine whether prison officials’ conduct violates the Eighth Amendment in the context of prison conditions, we ask whether “the officials involved acted with ‘deliberate indifference’ to the inmates’ health or safety.” *Ibid.* (quoting *Hudson v. McMillian*, 503 U. S. 1, 8 (1992)). Pitre’s complaint alleges that respondents subjected him to labor that they knew posed “a substantial risk of serious harm” to his health notwithstanding his pleas for a more appropriate assignment, *Farmer*, 511 U. S., at 837, and he even attaches a letter from a prison official implying as much. This is more than sufficient to state a claim of deliberate indifference. See *ibid.* (holding that a prison official violates the Eighth Amendment if he denies “an inmate humane conditions of confinement [if] the official knows of and disregards an excessive risk to inmate health or safety”).

To be sure, Pitre’s decision to refuse medication may

SOTOMAYOR, J., dissenting

have been foolish and likely caused a significant part of his pain. But that decision does not give prison officials license to exacerbate Pitre’s condition further as a means of punishing or coercing him—just as a prisoner’s disruptive conduct does not permit prison officials to punish the prisoner by handcuffing him to a hitching post, see *Hope*, 536 U. S., at 738. Pitre’s allegations, if true, describe “punitive treatment [that] amounts to gratuitous infliction of ‘wanton and unnecessary’ pain that our precedent clearly prohibits.” *Ibid.* I cannot comprehend how a court could deem such allegations “frivolous.” Because I believe that Pitre’s complaint states an Eighth Amendment violation, I would grant the petition for a writ of certiorari and reverse the judgment below.