

IN THE SUPREME COURT OF FLORIDA

FILED  
THOMAS D. HALL  
2009 OCT 30 P 2:21  
CLERK, SUPREME COURT  
BY \_\_\_\_\_  
CASE No: SC09-1133

ALBERT JEFFERSON,

PETITIONER

-V-

BOB INZER,

RESPONDENT(S)

ON APPEAL FROM THE CIRCUIT COURT  
OF THE 1<sup>ST</sup> JUDICIAL COURT

PETITIONER'S JURISDICTIONAL BRIEF

ON REVIEW FROM THE DISTRICT COURT OF APPEALS, 1<sup>ST</sup> DISTRICT  
STATE OF FLORIDA

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1. FL. D.O.C. PROCEDURES CH. 33-103.017(1): "NO STATE EMPLOYEE SHALL RETALIATE AGAINST ANY INMATE FILING GRIEVANCES." THIS IS A VIOLATION OF 1<sup>ST</sup> AND 14<sup>TH</sup> AMENDMENT RIGHTS;
2. FL. D.O.C. PROCEDURES CH. 33-208.003(21) OFFICER'S CODE: "NO OFFICIAL SHALL FALSIFY DOCUMENTS";
3. FL. D.O.C. PROCEDURES CH. 33-208.003(6) OFFICER'S CODE: "NO EMPLOYEE SHALL USE THREATENING AND ABUSIVE LANGUAGE";
4. FL. D.O.C. PROCEDURES CH. 33-404.108(2): "NO DISCIPLINARY ACTION SHALL BE INITIATED UNTIL HIS/HER MENTAL HEALTH CARE PROVIDER HAS BEEN CONTACTED TO DETERMINE IF THE PRISONER IS RESPONSIBLE FOR HIS/HER ACTIONS. MENTALLY IMPAIRED (PSYCH III) PRISONERS ARE PROTECTED UNDER TITLE II OF THE AMERICANS WITH DISABILITIES ACT OF 1990 (ADA) - TITLE 42 U.S.C. § 12131, et seq, Penn. Dept. of Corrections v. Yeskey, 118 S.Ct. 1952 (1998);
5. FL. D.O.C. CH. 33-601.302(2): "A FALSE DR, UNDERMINES RESPECT FOR ACCEPTANCE OF RULES REQUIRED FOR THE GENERAL WELFARE OF THE INSTITUTIONAL COMMUNITY AS A ROLE MODEL FOR LAW ABIDING BEHAVIOR; THIS ALSO VIOLATES THE OFFICER'S CODE OF CONDUCT - CH. 33-208.003(7, 13 AND 20); AND DUE PROCESS - MORRISON v. Lefevre, 592 F. Supp. 1052 (S.D.N.Y. 1984); Riley v. City of Montgomery, 104 F.3d 1247 (11 Cir. 1997).

## STATEMENT OF THE CASE AND FACTS

PETITIONER STATES THAT IN REGARD TO EACH DR WRITTEN BY FL.D.O.C. OFFICIALS WERE FALSE AND A DIRECT RESULT OF RETALIATION AGAINST HIM FOR FILING GRIEVANCES AGAINST STAFF. AT EACH DR. HEARING, PETITIONER WAS FOUND GUILTY BASED SOLELY "ON OFFICER'S STATEMENT."

PROCEDURES AND DUE PROCESS VIOLATIONS OCCURED IN EACH PROCESSING OF DISCIPLINARY REPORTS. THE THREATS BY STAFF DUE TO GRIEVANCES, FURTHER VIOLATED PETITIONER'S RIGHT TO FILE GRIEVANCES WHILE CONFINED IN FL.D.O.C.

RECORDS WILL INDICATE, NOT ONLY WAS PETITIONER'S LIFE THREATENED BY MARC DIAMOND - INSTITUTIONAL INSPECTOR, FLORIDA STATE PRISON - WHO STATED:

"IF YOU KEEP WRITING GRIEVANCES, I'LL HAVE YOU KILLED, AND I'LL GET AWAY WITH IT, BECAUSE MY MOTHER-IN-LAW IS A POWERFUL ATTORNEY" - STATEMENT MADE IN MARCH OF 2005.

MARC DIAMOND WAS DISCIPLINED BY SUPERIOR OFFICIALS IN TALLAHASSEE - i.e. DEMOTION - AND PETITIONER WAS TRANSFERED TO ANOTHER FACILITY FOR SAFETY REASONS. PETITIONER REQUESTS THAT THIS COURT REVIEWS HIS INMATE FILE - WHICH WILL REFLECT TRANSFERS - BEFORE REACHING A DECISION IN THIS CASE.

BASED UPON THE MERITS IN THIS CASE, THE LOWER TRIBUNAL COURT FAILED TO ORDER FL.D.O.C. TO ABIDE BY THE RULES AND PROCEDURES SET BY FL.D.O.C. OFFICIALS. THE FALSIFIED DRs, THREATS, AND RETALIATION FOR PETITIONER FILING GRIEVANCES IF FL.D.O.C. IS A DIRECT VIOLATION OF DUE PROCESS. FURTHERMORE, WHEN FL.D.O.C. OFFICIALS FAIL TO FOLLOW RULES AND PROCEDURES SET FORTH BY THEM, IT IS INSUBORDINATION.

## SUMMARY OF ARGUMENTS

PETITIONER SHOULD NOT BE PUNISHED BY FL. D.O.C. OFFICIALS FOR EXERCISING HIS/HER RIGHT TO FILE A GRIEVANCE(S). NOT ONLY DID PETITIONER RECEIVE THREATS AND FALSE/BOGUS DRs - IN LIEU OF RETALIATION - BUT ALSO, PETITIONER LOST 473 DAYS OF EARNED GAIN-TIME WHICH PROHIBITS HIM FROM HIS 85% RELEASE DATE; 14 NOVEMBER 2009, WHICH FURTHER INFLECTS ADDED PUNISHMENT.

## JURISDICTIONAL STATEMENT

THE FLORIDA SUPREME COURT HAS DISCRETIONARY JURISDICTION TO REVIEW A DISTRICT COURT OF APPEAL THAT EXPRESSLY AND DIRECTLY CONFLICTS WITH A DECISION OF THE SUPREME COURT OR ANOTHER DISTRICT COURT OF APPEAL ON THE SAME POINT OF LAW. Art. V, 3(b)(3) Fla. Const. (1980); Fla. R. App. P. 9.030(A)(2)(a)(IV).

## ARGUMENT

PETITIONER ALLEGES THAT EVERY DR WRITTEN WITH HIM AS THE RULE VIOLATOR, WAS FALSE AND IN RETALIATION FOR GRIEVANCES FILED AGAINST STAFF AND OFFICIALS.

PETITIONER ASKS THIS U.S. SUPREME COURT TO RULE AND BASE IT'S DECISION UPON THE MERITS AND FACTS CONTAINED WITHIN THIS CASE, AND ORDER FL. D.O.C. OFFICIALS TO FOLLOW THEIR WRITTEN AND SWORN RULES AND PROCEDURES (IT IS A FACT THAT FL. D.O.C. OFFICIALS HAVE DEVELOPED A SYSTEMATIC PATTERN OF RETALIATION TOWARDS INMATES WHO HAVE FILED GRIEVANCES).

## CONCLUSION

THIS COURT HAS JURISDICTION TO REVIEW THE DECISION BELOW AND THE COURT SHOULD EXERCISE THAT JURISDICTION, TO CONSIDER THE MERITS OF THE PETITIONER'S ARGUMENT.

CERTIFICATE OF SERVICE

PETITIONER, ALBERT JEFFERSON, STATES THAT THE ABOVE IS TRUE AND CORRECT, TO THE BEST OF HIS KNOWLEDGE. A COPY HAS BEEN FORWARDED TO:

KATHLEEN VON HOENE, GENERAL COUNSEL-FLDOC, 2601 BLAIRSTONE ROAD, TALLAHASSEE, FL 32399-2500; BILL MCCOLLUM, ATTORNEY GENERAL, 2601 BLAIRSTONE ROAD, TALLAHASSEE, FLORIDA 32399-1850.

DELIVERED TO FL.D.O.C. OFFICIALS FOR MAILING ON THIS 28<sup>th</sup> DAY OF OCT. 2009.

Albert Jefferson