

Robert Charles Jordan Jr.)
P.O. Box A-46604)
Soledad, California)

In The United States District Court

Northern District

Southern Division

Application of Robert Charles Jordan Jr.)

Petitioner)

Original No. 43983

-vs-)

New No. _____

C. J. Fitzharris, Warden, et. Al.)

Correctional Training Facility,)

Soledad, California)

Respondent)

For The Honorable Judge, Presiding, In The Above Entitled Court.

Greetings:

Resubmission For Petition For a Writ of Habeas Corpus

Comes now the petitioner Robert Charles Jordan Jr. appearing In Forma Pauperis and "Propria Persona", who respectfully motions and moves this Honorable Court of the United States to hear and grant petitioners prayer for a writ of Habeas Corpus in the matter of Jordan -vs- Fitzharris.

This is a repetition in the Court's of the United States (District) sought for the purpose of going legal remedy and rectification of unlawfully and unconstitutional conditions and acts.

Petitioner originally petitioned this Honorable Court and was denied for not seeking State relief first (Jordan -vs- Fitzharris No. 43983, denied August 12, 1965) Petitioner submitted his petition to the Supreme Court of the State of California and was on the 7 day of October, 1965 DENIED

Petitioner wherefore resubmits his petition before this Honorable Court for its consideration and judgement.

Statement of The Case and Facts

On the 30th day of June, 1965 petitioner was placed in the "long term

1 segregation" unit of Soledad State prison. Petitioner was at once subjected
2 to harrasment and "baiting" by various officials of that unit.

3 On the night of July 9, 1965 petitioner was harrassed continually by the
4 officer in charge of his cell floor. Petitioner was baited and enticed into
5 a display of anger which justified the writting of a "beef" or 115 form upon
6 petitioner, which was the sought for result and object of the harrassive
7 treatment, said 115 form or disiplinary report being the basis of justifica-
8 tion for punitive action against petitioner.

9 Petitioner was approximately 15 minutes after the dispute taken from his
10 cell and handcuffed and escorted to a so-called "Strip-Cell". Petitioner was
11 striped naked and placed in the said "Strip-Cell" in that condition. Later
12 that night petitioner was given a "Strong Blanket", this being a stiff canvas
13 mat.

14 Petitioner has no sanitary provisions at all other than an old wornout
15 toilet which was and is in such a filthy state that the enamel has cracked and
16 fallen out in chunks and the base metal thus exposed is corroded with rust
17 and encrusted with the waste products of the previous inhabitants of the cell.
18 The doors and windows of petitioner's cell were kept shut tight and circula-
19 tion of fresh air was nil and non-exsistant. The neusaous and disgusting fumes
20 arising from the afore cited toiled causing petitioner continuous headaches and
21 stomach upset. The room was virtuly airless and no respite could be gained
22 from the fumes which were all but over powering. Upon this was added the fact
23 that said toilet was flushed only by the official, no means being provided for
24 the person in the cell to do so, and it was flushed by the official twice a day
25 (2) early in the morning and late at night and if any bodily functions were
26 neccessary from the hours of approximatly 8:30 a.m. to 9:15p.m. to 8:20 a.m. the
27 wastes remained in the toilet throughout thehours mentioned. As cited before the
28 doors and windows remained tightly shut all day except during meals (approximatly
29 15 minutes per meal, the door only was left open and only two meals were served
30 per day and one sack lunch along with the second meal). The room is filled with
31 the resultant fumes to a near unberable degree and as stated before there is no
32 circulation of any fresh air.

1 Petitioner was left naked in the cell for 7 days with only the canvas mat
2 to lay upon. The temperature at night, on the average drops to between 45 and
3 50 degrees above zero. Petitioner was forced to endure the cold with only the
4 stiff canvas mat. This mat is approximately 58 by 3½ or 4' square. Petitioner
5 is 68 1½" tall. Even attempting to cover myself with the mat was no good as
6 the floor is concrete and has no heating equipment. Folding the mat over offers
7 no protection from the cold either as it remains open on 3 ends and is so stiff
8 that it must be held or it will not stay covering a person. Sleep, between the
9 extreme cold and the disgusting fumes blanketing the room, is just about impos-
10 sible.

11 Petitioner was left in this cell for 12 days. In that time petitioner was
12 not allowed to wash, shave, or shower himself in any way.

13 Petitioner grew quite rancid with body odors and filth. Petitioner was
14 not afforded any sanitary provisions what so ever. Petitioner was forced to
15 urinate, and defecate and then eat his food with his hands unwashed. Petition-
16 er was not allowed a tooth brush or comb and was not even provided with, or
17 allowed to have, any rag or towel to clean his hands with. Petitioner has some
18 bad teeth and not being able to clean them resulted in portions of them rapidly
19 decaying to the point that in the last 3 or 4 days pieces of his teeth were
20 falling out as he ate his food.

21 Petitioner was in addition not at all in the entire twelve days allowed to
22 wash his face or head at any time and was not even given, or allowed to have,
23 even a rag to wipe with and no water at all other than a small cup filled 3
24 times a day for drinking water and it of such a small quantity as to offer no
25 chance of being used for washing.

26 Petitioner also has very bad eyes and it is on his medical record that his
27 eyes are very weak and have grown progressively worse in the last 7 or 8 years.
28 Petitioner was forced to lay in a perpetual gloom or twilight in the cell with
29 the only light afforded was that which seeped in through cracks in the door
30 and windows. Petitioner was forced to endure this condition for 24 hours a
31 day even though it is a medical fact, on record, of his very weak and bad eyes.
32 Petitioner suffered continual eyestrain and severe headaches and informed the

1 officials of this fact and was ignored. Also the very strong fumes from the
2 toilet, and the bodily orders caused by petitioners filthy and unwashed body
3 and mough intermingling; and the filthy condition of the cell its self which
4 has human urinary wastes on the floor and walls from other inhabitants delib-
5 erately depositing such there, said cell being very small, and tightly sealed
6 is described before, and not even being swept or mopped even upon the request
7 of petitioner who complained of the smells of the floors and walls from the
8 wastes and the existance of the wastes themselves; all these factors of fil-
9 th and decay and general unsanitary conditions and the smallness of the room
10 and the lack of any circulation of any air, fresh or old, creating an "atmos-
11 phere of dense and disgustingly nauseating "smog" or putrid rancidness.

12 Petitioner complained of these conditions to an official, a correctional
13 sergeant, and pointed out to him the devased and revolting aspects of petition-
14 er's confinement under said conditions and asked said official if he was
15 aware that such conditions were illegal. Said official informed petitioner
16 that he was aware that the obvious filthy conditions of the cell and of peti-
17 tioner's confinement among those conditions and the proven medical hardships
18 imposed upon petitioner were illegal and that he personally thought it was revol-
19 ting for a person to urinate and deficate daily and be forced to handle and
20 eat his food with hands unwashed; that for a person to be unable to brush his
21 teeth for such an extended amount of time was not "right". That he, the serge-
22 ant was definatly of the opinion and view that all of these factors were il-
23 legal and should be "done away with", "but", that he, the sergeant, did not
24 make the rules of the institution or set its policies and it was not within
25 his power to abolish the cells or their conditions.

26 Petitioner contends that these conditions and facts, set forth above,
27 constitute, and are cruel and unusual and also are a actual danger to the
28 health of persons imured among them.

29 Petitioner in April and again in May, 1965 has a dental checkup and at that
30 time it was found that petitioner has several teeth that required dental attention
31 and this information was entered upon his file.

32 It is petitioner's contention that not being able to keep his teeth properly

1 cleaned and that the uninterrupted action of bacterial decay has resulted in
2 loss of at least 2 teeth, these teeth having portions coming loose in the act
3 of chewing food.

4 Also in April, 1965, petitioner was given an eye examination and at this
5 time it was discovered that petitioners eyes had undergone a decided and per-
6 ceptable deterioration. Petitioner was given very, very thick eyeglasses and
7 the fact of the weak nature was entered upon his file.

8 Petitioner informed the officials of these facts and asked to be allow-
9 ed to brush his teeth at least once a day and was refused also he was re-
10 fused in his request for one window flap to be left open on account of his
11 eyes.

12 Plus from the second day petitioner asked to be allowed to have his
13 legal material in order to finish instituting action sought by petitioner in
14 the Courts and finish and send out petitions in the process of preparation.
15 In this request also petitioner was refused. On July, 1965 petitioner was
16 given petitions sent back to petitioner for lack of proper forms, along with
17 3 forms and a letter from the Clerk of the Court informing of the reason for
18 the return of the forms and advisory petitiones that he was being sent 3 forms
19 by the Court, to prepare and resubmit his petitions to the Court using the
20 forms.

21 Petitioner informed the officials of the need of his legal material in
22 order to so prepare his petition and correctly fill out the forms as the data
23 requested in the forms was contained in official letters to petitioner from the
24 Courts and upon previous petitions (Copys of) in his legal material, also all
25 his notes of cases cited and precedents. Petitioner was refused, and has contin-
26 ued to be denied said material, petitioner was, by a correctional surgeant,
27 told that he, petitioner, was not "Authorized" to have any legal papers. Shown
28 the forms and letter from the Court, this official still insisted that petition-
29 er had no right to any legal papers.

30 This last being a clear violation of petitioners Constitutional Rights,
31 of habeas corpus, Petitioner informing the official of his intention, and
32 right, to petition the legal Courts for habeas Corpus by virtue of the illegality

1 and hazzard to health of the conditions cited before. The right of habeas
2 Corpus is a Constitutional Right which the States are specifically enjoined
3 from abridgment or suspension by explicit wording in the U. S. Federal Con-
4 stitution. Habeas Corpus is a "Right" not a "privilage" and is not subject to
5 the "whims" of prison officials as to what time and in what manner it will be
6 accorded persons under their authouity. The official refused to allow petit-
7 ioner his legal material among which was a quantity of blank sheets of paper
8 upon which petitioner could prepare a petition, and in turn, refused to supply
9 petitioner with any paper upon which to prepare a petition.

10 This type of action being for the blatiant and obvious reason of not
11 allowing petitioner appretunity of complaining of his confinement in the
12 nasty, filtyh, and health hazzardous conditions cited herin. This constitut-
13 ing, and in actual fact being, a suspension and adjudgement of the right of
14 habeas corpus. The design and intent of the right of habeas corpus is to
15 prevent the imposition of any such cruel and unusual conditions as cited herein
16 and to gain releif from the imposition of such conditions. By refusing to allow
17 petitioner any means of preparing any such petition for habeas corpus the offici-
18 als in actual fact contravent the whole system and purpose of habeas corpus.
19 If the officials can impose such conditions for 3 days and have been informed of
20 the wish, desire, and intent of the detainee, from the first day, to petition
21 for habeas corpus, and said officials refuse to allow said detained person any
22 material or means to so petition, (espicially when such means are available and
23 stored on said persons personal property and furnished by himself; pencil,
24 paper, ect.), then these officials are perverting and evading the intent and
25 purpose of the U.S. Federal Constitution. And if such officials can so sus-
26 pend and deny the Constitutional Right of habeas corpus for 3 day or 4, or 10,
27 or, as in petitioner's case, 12 days, is there any limit to the period of time
28 they can continue to do so? If they can do it for 3 days, or 12 days, they
29 can do it just as well do it for 3 weeks or 3 months or any other amount of
30 time they see fit to do so, and so impose any conditions they wish.

31 The officials of the institution and unit where petitioner is immured
32 take the attitude that they have absolute power over every aspect of a prisoners

1 life and that any action he takes or makes, legal or otherwise is a "privilege"
2 that they benevolently "allow" such prisoners to have, and that prisoners have no
3 "Rights", constitutional or moral or other, and that they, the officials, are
4 empowered, by virtue of their "Authority", to suspend or deny any and all "privil-
5 ages" at their discretion, whether such privileges are Constitutional Guarantees
6 or not.

7 The conditions heretofore cited constitute cruel and Unusual treatment and
8 punishment and in his allegations that such conditions were illegal petitioner
9 had the concurrence of an correctional officer and a Correctional sargent of
10 the institution who observed the said conditions. Such being the case, cruel
11 and unusual punishment and treatment are prohibited by both State and Federal
12 laws and Constitutional guarantees; (U.S. Const. Amdt. 8, "Cruel and unusual
13 punishment") (California Penal Code #2650, 2651, 2652, 2653, 2654 (ect.) "Treat-
14 ment of prisoners" and Cruel and unusual punishment (Cal. Pen. Code #147 "Inhum-
15 anity to prisoners.") And to gain relief and legal remedy petitioner was and is
16 entitled to petition for Habeas Corpus.

17 The refusal of the official to allow petitioner to exercise his Constitu-
18 tionally Guaranteed right to such habeas corpus and the denial and refusal to
19 afford petitioner the means of so preparing such petition was an is in direct
20 violation and flagrant disregard of the Constitutional rights of petitioner and
21 and of the mandatory provisions (U.S. Const. Amdt. 5; U.S. Const. Amdt. 14, sec.
22 1, "Due process of Law" and "Equal protection of the Law" and of the right of
23 habeas Corpus of which petitioner does not know the title of the provision).

24 Authorities Cited in Support

25 "The right of access to the Courts in a Constitutional Right which petition-
26 er is lawfully entitled as a matter of Due process of law;" re; Hatfield -vs-
27 Baillieux, 290 F. 2d 632, 636.

28 "Habeas Corpus is proper remedy to remedy to relieve illegal restraint,
29 such as denial of access of Court, imposed upon prison officials;" United
30 States -vs- Johnson 323 U. S. 273, 275, 65 S. Ct. 249, 89 L. Ed. 236, 65 S. Ct.,
31 at 250. (Also see; Cummings -vs- Missouri 4 Wall 277, 323; Boyd -vs- United
32 States 116 U.S. 616, 630 and Martin -vs- Hunters Lessee, 1 Wheat 304. Also

1 See In Ex Parte Sharp, (1940) 33 Fed. Supp. 464 and Chehran -vs- Kansas No.
2 510, 316, U.S. 255, 258, (1942).

3 * "Questions as to whether petitioner is entitled to any given relief sought
4 in a court, or whether he is entitled to seek it, and facts which are to be de-
5 termined by the Court and the Court alone, without interference of prison offic-
6 ials" Re; Robinson, 112 Cal. App. 2d 626, 629. (Also see In Re; Malone 112 Cal.
7 App. 2d 631.

8 Petitioner was in 1964 subjected to the same sort of treatment in a more
9 harsh manner, being slapped around and left completely naked in the same sort of
10 "strip cell for approximately 15 days with no mat or any other article in the cell.
11 Petitioners attempt to complain of this incident and the conditions of illegal-
12 ity was averted and prevented by the confiscation and destruction of his petition
13 for habeas corpus by prison officials. Petitioner has been the target and vic-
14 tem of blatant discriminations and prejudice and repressive and intimidative
15 measures and acts and deed by prison officials and has been subjected to various
16 and onerous designs and actions by said prison officials. Petitioner's life
17 was out in danger and it is medically recorded in his file that his health was
18 caused to suffer severely and dangerously. Petitioner has been treated in a
19 vindictive manner and threatened. Petitioner has also been told flatly by
20 prison officials that there is no intention of ever allowing petitioner his
21 freedom and that when his term is served, (less then 32½ months remain of said
22 term)"means will be found to continue his incarceration if not found before then.

23 Prayer of Petitioner

24 Petitioner wherefore prays that the herein sought writ will issue forth from
25 this Honorable Court directed against the respondent directing him to appear be-
26 fore this Honorable Court, along with the body of your petitioner, at a time and
27 place to be therein specified. to do and receive what shall be considered proper
28 by this Honorable Court in these matters. Further No Saith Naught.

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

30 Dated this 30 day of Sept, 1965.

31

Respectfully Submitted,

32

Robert C. Jordan Jr.
Robert Charles Jordan Jr.

1 State of California)
2 County of Monterey) SS: PROOF OF SERVICE BY MAIL
3

4 I, Robert C. Jordan, Jr., being duly sworn, depose and say:
5 That I am over the age of 21 years, a citizen of the United States and
6 a resident of Monterey County, at Soledad, California, and sole party
7 to the within action or proceeding;

8 That I did this day submit for depositing in the United States
9 Mails at the Post Office at Soledad, with postage prepaid thereon,
10 true copies of the within document for the following persons and that
11 there is a regular communication by mail between Soledad and these
12 destinations:

13 Original and one (1) copy to: Office of the Clerk, United States
14 District Court, Box 36060, 450 Golden Gate Ave. San Francisco
15 California, 94102
16

17 1 Copy to: Calif. Attorney General, 600 State Building, San
18 Francisco, California
19
20
21
22
23

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

26 Dated this 11 day of October, 1965.
27

28 Robert C. Jordan, Jr.
29

Petitioner,

30 BOX A-46604

31 Soledad, California
32

1 State of California)
2 County of Monterey)

SS: PROOF OF SERVICE BY MAIL

3
4 I, Robert C. Jordan, Jr., being duly sworn, depose and say:

5 That I am over the age of 21 years, a citizen of the United States and
6 a resident of Monterey County, at Soledad, California, and sole party
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