

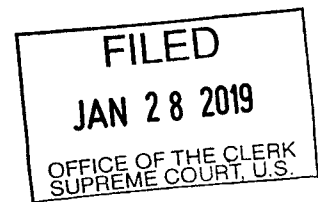
No. 18-8560

**IN THE
SUPREME COURT OF THE UNITED STATES**

HAKEEM SULTAANA – PETITIONER

vs.

CHAE HARRIS – RESPONDENT(S)



**ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
SIXTH CIRCUIT (6TH) CIRCUIT BEFORE
HONORABLE JUDGES GUY, STRANCH, AND LARSON**

PETITION FOR THE WRIT OF CERTIORARI

Hakeem Sultaana, *pro se*
P.O. Box 120
Lebanon, Ohio 45036

QUESTION(S) PRESENTED

WHETHER THE SIXTH CIRCUIT COURT OF APPEALS CAN IGNORE ITS JURISDICTION POWERS UNDER TITLE 28 U.S.C. §1291 AND FILE A VOID ORDER ON OCTOBER 31, 2018 WITHOUT PUBLICATION, WHEN THE FACT CLAIMS REMAIN PENDING IN SULTAANA'S HABEAS CORPUS PETITION IN THE U.S. NORTHERN DISTRICT COURT OF OHIO CASE NO. 2016-CV-02884.

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**IN THE
SUPREME COURT OF THE UNITED STATES**

PETITION FOR WRIT OF CERTIORARI

Hakeem Sultaana, herein referred to as Sultaana, is an illegally held prisoner in the venue of Warren Correctional Institution, petitions for a writ of certiorari to review the jurisdiction-less October 31, 2018 order of the United States Court of Appeals for the Sixth Circuit.

OPINIONS BELOW

The Sixth Circuit October 31, 2018 order denied Sultaana a panel rehearing. The decision was not reported but is attached as an exhibit.

JURISDICTION

The Sixth Circuit Court of Appeals' void order denying Sultaana a panel rehearing and numerous unopposed motions was filed on October 31, 2018. This Court has jurisdiction under 28 U.S.C. §1254(1).

RELEVANT STATUTORY PROVISIONS

28 U.S.CODE §1291 and FEDERAL CIVIL RULE 54(b)

28 U.S. Code §1291 reads in full –

§ 1291. Final decisions of district courts

The courts of appeals (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, except where a direct review may be had in the Supreme Court. The jurisdiction of the United States Court of Appeals for the Federal Circuit shall be limited to the jurisdiction described in sections 1292(c) and (d) and 1295 of this title [28 USCS §§ 1292(c) and (d) and 1295].

While Federal Civil Rule 54(b) reads in full –

(b) Judgment on Multiple Claims or Involving Multiple Parties.

When an action presents more than one claim for relief—whether as a claim, counterclaim, or third-party claim—or when multiple parties are involved, the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay. Otherwise, any order or other decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities.

STATEMENT OF THE CASE

Up to date, the Sixth Circuit Court of Appeals has usurped jurisdictions and refused to publish its decisions pertaining to any of Sultaana's habeas corpus due process proceedings in its venue, starting with its case number 16-3299/16-3301 July 18, 2016 order and opinion denying Sultaana a certificate of appealability and ending with this instant certiorari seekage.¹

On November 29, 2016, Sultaana re-filed his habeas corpus petition in the district court after the Sixth Circuit denied Sultaana's *en banc* request. On December 13, 2016 and December 30, 2016 Sultaana timely amended his habeas corpus petition with additional claims that included Sultaana was denied his U.S. Constitutional right to appellate counsel.² On February 13, 2017 respondent filed its motion to dismiss without addressing Sultaana's amended claims. Over a year later on April 4, 2018 the district court Magistrate Judge filed his report and recommendation, without addressing Sultaana's amended claims (Appendix A), Sultaana promptly objected.

On April 26, 2018 the district court filed an order and opinion under the title Sultaana v. Sloan dismissing Sultaana's petition with prejudice without addressing Sultaana's timely amended claims made pursuant to Federal Civil Rule 15. In

¹ On October 3, 2018 in the Sixth Circuit denied Sultaana's request to publish its August 20, 2018 opinion even though jurisdiction is challenged, while an extraordinary writ is being filed in this Court pursuant to 28 U.S.C. §1651 (A). (See Appendix J and this Court case number 18-6449)

² Filed as document #'s 5 and 45 in the Northern District Court Case No. 2016-CV-02884 *Sultaana v Sloan* (See Appendix D)

addition, the district court filed in its order an alarming unconstitutional notice directing the clerk of court **not** to accept any motions, objections, notices or any other filings by Sultaana or anyone on his behalf; while also ordering if Sultaana disagrees with this opinion and order he shall appeal it to the Sixth Circuit Court of Appeals. (Appendix B)³

Shortly after, Sultaana filed a notice of appeal to the Sixth Circuit Court of Appeals pertaining to the district courts April 26, 2018 non-final appealable order while simultaneously filing a writ of mandamus in the Sixth Circuit Court of Appeals requesting the Sixth Circuit Court of Appeals to compel the district court to consider Sultaana's motion for reconsideration and Sultaana's timely amended claims that remain pending.⁴ (See Appendix K)

Once the appeal got filed and docketed in the Sixth Circuit Court of Appeals. The Sixth District, *sua sponte*, changed the title of the case to *Sultaana v Harris* over Sultaana's objection. (See Appendix E)

Sultaana instantly filed a motion for remand in his appeal to the Sixth Circuit requesting the court to remand back to the district court to have the district court

³ This order hindered Sultaana from filing any motion in the district court after the district court's April 26, 2018 order, to bring to the attention of the district court of claims remains pending in the action. This order is causing actual prejudice to Sultaana since Sultaana can not file any motion requesting for certification pursuant to Federal Civil Rule 54(b) since claims remain pending.

⁴ Sixth Circuit Court of Appeals Case No. 2018-3424. Sultaana's motion for reconsideration was filed in the Sixth Circuit Court of Appeals mandamus action since Sultaana had nowhere to file since the clerk of court had refused to file it. Sultaana's reconsideration motion put the Sixth Circuit Court of Appeals and district court on notice that Sultaana's claims remained pending in the district court that amounted to jurisdiction issues in the Sixth Circuit Court of Appeals Case No. 2018-3425. Sultaana has attached a copy of his mandamus petition to give more insight to this court. (See Appendix M and N page 3 number 5)

address Sultaana's remaining claim. (Appendix C) Sultaana's motion went unopposed. Thereafter, Sultaana filed several motions that sought emergency bail pending appeal, injunction relief, change appeal title, and motion to take judicial notice. Sultaana also filed affidavits to the Court of Appeals informing the court the unconstitutional treatment Sultaana was up against by respondent at that present time. All of Sultaana's motions and filings went unopposed.⁵ (Appendix L)

With no due process being afforded to Sultaana's filings on August 19, 2018 Sultaana deposited in the institutional mail box a motion to dismiss for lack of jurisdiction. The following day (August 20, 2018), the Sixth Circuit Court of Appeals filed its order under the case title of *Sultaana v Harris* denying Sultaana's application for a certificate of appealability and denied all Sultaana's motions that had went unopposed. (Appendix F) The Sixth Circuit Court of Appeals did not publish its August 20, 2018 order.⁶

A week later, the Sixth Circuit Court of Appeals filed Sultaana's motion to dismiss for lack of jurisdiction. The following day the court sent Sultaana a correspondence informing Sultaana it would not consider his motion to dismiss for lack of jurisdiction due to the fact the court gave an order on August 20, 2018.

(Appendix G)

⁵ Sultaana has attached a copy of the Sixth Circuit case docket to confirm Sultaana's statement of the case. (Appendix L)

⁶ Currently Sultaana has a motion for publication of the Court's August 20, 2018 order that has been unopposed. The Sixth Circuit Court of Appeals JUST DENIED TO PUBLISH ITS August 20, 2018 order. (Appendix J)

Sultaana instantly uttered a correspondence to the Sixth Circuit Court of Appeals for the Sixth Circuit Chief Judge R. Guy Cole Jr., informing him of the correspondence from the court and requesting him to address Sultaana's motion to dismiss using the prison mailbox rule. (Appendix H)

Thereafter, Sultaana filed a panel rehearing motion and *en banc* request informing the court that the court was without jurisdiction to issue the August 20, 2018 order.⁷ (Appendix I)

On October 31, 2018 the Sixth Circuit Court of Appeals filed an order declining to rehear the matter in which a panel, in which the original deciding Judge did not sit, in declining to rehear Sultaana's panel rehearing request.

⁷ Currently Sultaana's *en banc* request and panel rehearing motion has been unopposed and is still pending.

REASONS FOR GRANTING THE PETITION

The Sixth Circuit has usurped jurisdiction and departed from the accepted and usual course of judicial proceedings which calls for an exercise of this Court's supervisory power to address the issue of jurisdiction, pursuant to title 28 U.S.C. §1291 and Federal Civil Rule 54(b), pertaining to Federal Appellate courts when claims remain pending in a habeas corpus action in a district court, that include Sultaana was denied his United States Constitutional Right of Appellate Counsel.

The Sixth Circuit Court of Appeals decision declining to consider its jurisdictional power, when a jurisdiction challenge was presented to the court in several motions by Sultaana that went unopposed, undermines the cornerstone of 28 U.S.C. §1291, Federal Civil Rule 54(b), and the entire habeas corpus and appeal due process that has Sultaana false imprisoned-scratching and digging for help to correct an unjust incarceration and correct a miscarriage of justice.

When the Sixth Circuit Court of Appeals filed an order on August 20, 2018 without having jurisdiction or authority to file an order simply disregarded this Court's controlling authority of the following cases pertaining to U.S.C. 1291:

- (1) *Budinich v Becton Dickinson Co.*, 486 U.S. 196, 108 S. Ct. 1717, 100 L.Ed.2d 178 (1998) (Federal court of appeals have jurisdiction of appeals from “**final decisions**” of United States District Courts.)
- (2) *Swint v Chambers County Comm’n*, 514 U.S. 35, 42, 115 S. Ct. 1203, 131 L.Ed.2d 260 (1995) (Section 1291 gives the court of appeals jurisdiction over appeals from “all **final** decisions of the district courts of the United

States.” A “**final decision**” is one “by which a district court disassociates itself from a case.)

(3) *Mohawk Industries, Inc. v Carpenter*, 558 U.S. 100, 106, 130 S. Ct. 599, 175 L.Ed.2d 458 (2009) (while decisions of this court have accorded 1291 a “practical rather than a technical construction”)

(4) *Cohen v Beneficial Industrial Loan, Corp.*, 337 U.S. 541, 546, 69 S. Ct. 1221, 93 L.Ed. 1528 (1949) (see above case authority)

(5) *Catlin v United States*, 324 U.S. 229, 233, 65 S. Ct. 631, 89 L.Ed. 911 (1945) (the statute’s core application is to rulings that terminate an action) also (in the ordinary course a “**final decision**” is one that ends the litigation on the merits and leaves nothing for the court to do but execute judgment)

This Court must grant this petition and intervene because Sultaana’s habeas corpus petition was filed in 2016 and the district court, without good cause, waited until April of 2018 to dismiss Sultaana’s habeas corpus petition with prejudice. They did so without addressing Sultaana’s timely amended claims while ignoring all rules governing habeas corpus proceedings and Federal Civil Rules of Procedure is an abuse of discretion setting. Topple the alarming unconstitutional fact when the district court unlawfully dismissed Sultaana’s habeas corpus petition it gave the clerk’s office an order to refrain Sultaana from filing any document including; a motion for reconsideration, a Civil Rule 59, any filing seeking relief from the district court’s unlawful April 26, 2018 order. This April 26, 2018 order stripped Sultaana’s right to bring to the district court’s attention that its April 26, 2018 order is not a final appealable order and an unlawful order. (See Appendix B)

Now two legal prescriptions figure in this case to have this Court grant this petition. The two are title 28 U.S.C. §1291 and Federal Civil Rule 54(b). Also what must be included is the District Court blocking Sultaana access to the court to file any motion after the district courts' April 26, 2018 order to bring to the district courts attention claims remain pending.

Now since Sultaana asserts claims remain pending in his district court habeas corpus proceedings which is supported by the district court record, this Court must look at the district court's April 26, 2018 order to see no Federal Civil Rule 54(b) certification appears on that order. (Appendix C) This Court will also see the district court's April 26, 2018 order does not lodge the language “**expressly determine that there was no just reason for delay**”.

Now with Sultaana's claims still pending in his habeas corpus action and the district court's April 26, 2018 order lodges no Federal Civil Rule 54(b) certification. The critical issue of the Sixth Circuit Court of Appeals jurisdiction pursuant to title 28 U.S.C. §1291 must be examined under applicable law.

Now in the ordinary course, a “**final decision**” is one that ends the litigation on the merits and leaves nothing for the court to do but execute the judgment. *Catlin v U.S.*; see also *Cunningham v Hamilton County*, 527 U.S. 198, 204, 119 S. Ct. 1915, 144 L.Ed. 2d 184 (1999) Sultaana asserts with claims still pending in his habeas corpus proceeding within the district court, there is no final appealable order

which is required to give jurisdiction under §1291 “any litigant armed with a final judgment from a lower Federal court is entitled to take an appeal.” *Arizona v Manypenny*, 451 U.S. 232, 244, 101 S. Ct. 1657, 68 L.Ed. 2d 58 (1981)

Now Rule 54(b) permits district courts to authorize immediate appeal of dispositive rulings on separate claims in a civil action raising multiple claims. When an action presents more than one claim for relief . . . or when multiple partners are involved, the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay.

Simply put, the district courts April 26, 2018 order did not lodge 54(b) certification summing up to the Sixth Circuit Court of Appeals August 20, 2018 is void on its face via §1291 jurisdiction issues.

The Sixth Circuit Court of Appeals on August 20, 2018 went outside its legal powers by filing an order and opinion without jurisdiction. This court must grant this petition so Sultaana can be afforded accurate habeas corpus due process relief under all applicable rules and procedures and halt the unwarranted delays that still have Sultaana confined in prison. Sultaana’s claims which remain pending in the district court must be adjudicated fully instead of piece-meal litigation so the Sixth Circuit could exercise jurisdiction if needed within its authority of §1291.

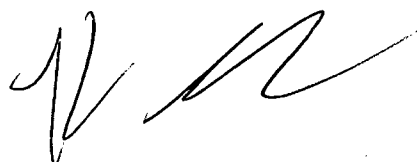
CONCLUSION

What is Sultaana suppose to do when the Sixth Circuit Court of Appeals has usurped jurisdiction without Federal Civil Rule 54(b) certification on the district courts April 26, 2018 non-final appealable order while the district court will not accept any filings from Sultaana? If the Sixth Circuit Court of Appeals knows that claims remain pending in Sultaana's habeas corpus petition and files an order anyway on August 20, 2018 without publication or refusing to take action on Sultaana's motion to dismiss for lack of jurisdiction, means an abuse of discretion has taken place. Title 28 U.S.C. §1291 must trigger in to have this Court vacate the Sixth Circuit Court of Appeals October 31, 2018 via this Courts power. Sultaana has implemented one of his remedies to cure this jurisdiction issue by filing this instant writ of certiorari. While an original action is pending in the Court addressing the jurisdiction of the 6th Circuit Court of Appeals. (U.S. Supreme Court Case Number 18-6449).

Sultaana's statement of the case and reasoning for this Court to grant this petition via this Courts controlling case law authorities clarifies and supports Sultaana's legal position on the issue of jurisdiction. Sultaana prays to God and this Court to grant this petition for all the stated reasons in this petition to vacate the Sixth Circuit Court of Appeals August 20, 2018 jurisdiction-less void *ab initio* order. Sultaana has timely followed all applicable rules. Sultaana has attached a

copy of respondent Sloan's motion to dismiss to show that Sloan never addressed Sultaana's timely amended claims. (Appendix K) Sultaana has attached the Sixth Circuit Court of Appeals Case Docket of 18-3425 to show the void due process to support this certiorari seekage. (Appendix L)

Respectfully Submitted



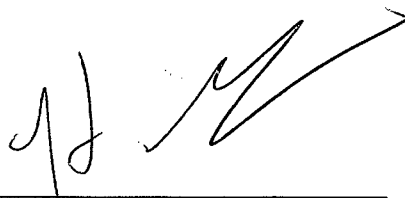
Hakeem Sultaana
P.O. Box 120
Lebanon, Ohio 45036

CERTIFICATE OF COMPLIANCE

As required by Supreme Court Rule 33.1(h), I certify that the petition for a writ of certiorari contains 2,742 words, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1(d).

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

Executed on January 26, 2019.



Hakeem Sultaana

CERTIFICATE OF SERVICE

A copy of this writ of certiorari was sent regular U.S. Mail to Mary Ann Reese
at 441 Vine St., Cincinnati, Ohio 45202 on this ²⁶ ~~10th~~ ^{January 2019} day of November 2018.

A handwritten signature in black ink, consisting of a stylized 'H' followed by a long horizontal line.

Hakeem Sultaana