

Motion to direct Clerk to File Out Of Time

In The

SUPREME COURT OF THE UNITED STATES

No. : 9:17-cv-00281-DCN

Jacqueline Pidanick

vs.

Marshal Horton, Christopher Maddaloni and Horton Law Firm LLC.

On Petition For A Writ Of Certiorari To The United State Court Of Appeals
For The Fourth District

Motion to direct Clerk to File Out Of Time

JACQUELINE PIDANICK

Pro Se

Friend to the Court

262 Old Bridge Dr.

Bluffton, South Carolina

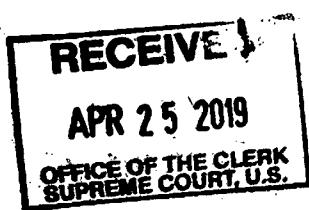
29910

Jakkiepidanick@yahoo.com

Counsel for the opposing party

Joseph C. Wilson
Post Office box 22437
Charleston, South Carolina 29413

Mark S. Berglind
Post Office box: 769
Bluffton, South Carolina 29910



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JACQUELINE PIDANICK objects to the clerk of court stating untimely filing of the Writ Of Certiorari due to establishing an enforceable order in the Appellate court, on the 24Th of March and sent on the 25Th due to the 24th of March being a Sunday, the Pro Se victim plaintiff filed a Petition for Writ Of Certiorari . Using a pro bono lawyer to confirm that on Nov. 19Th the order in question was not in effect due to the pro Se victim filing a removal from the federal appellate court to correct an objection in the district trial court. The Pro Se victim plaintiff then filed to be reheard to object to which the district court denied. On Dec 26 Th, the plaintiff received a mandate that stated “ the Nov. 19 Th order is effective today.” Today was dated December 26 Th 2018 placing the 90 days on the 24Th of March 2019. The plaintiff who was responsible to ask a lawyer stated that even though a regular mandate is not considered, in my case due to the language of the mandate the lawyer stated the date was now active from the mandate. This is due to the fact a appellate court order is needed and needed to be active to establish a base to continue on to the United States Supreme Court. On April 19Th 2019 the Honorable Court sent a letter to the plaintiff instructing to refile the Writ Of Certiorari (Attached) including a motion to Direct The Clerk to File Out Of Time.

This Pro se litigant labors under the disadvantage of being unable to read procedural rules effectively at such a high level which the pro se victim, Plaintiff interpreted to the best of her ability even had asked for a legal opinion. Due to the effort of the pro Se victim to file appropriately and seeking legal advice from a lawyer on the matter should hold weight since all citizens attempting to access the court in good faith should not be denied. Most pro se litigants think that a lawsuit proceeds neatly from complaint to answer to trial. Thus when served with a motion for summary judgment for example supported by affidavits or other supplementary

Motion to direct Clerk to File Out Of Time

materials, pro se plaintiffs assume that they can contest the defendant's assertions at oral argument. This is just one way a pro se victim can misinterpret the producer of the court.

Several courts recognize that service of a order does not adequately advise a pro se litigant of the duty to submit materials since legal interpretation is hard. Proper construction of the Rule is unreasonable to presume that pro se litigant possess comparable skills of statutory or rule construction to follow through correctly never have doing it before. Even the most intelligent, educated layman is unlikely to be able to properly construe procedural rules. Most pro se litigants are uneducated, augmenting the futility of expecting them to recognize complex procedural requirements without at least notification of those requirements. *Traguth v. Zuck*, 710 F.2d 90, 95 (2d Cir. 1983) (district court erred in allowing forfeiture of pro se litigant claim caused by litigant's lack of legal skills); *Parisie v. Greer*, 705 F.2d 882, 898 (7th Cir.) (Swygert, J., concurring) (advocating duty on trial court to enlighten pro se litigants of procedural requirements when litigant is in state of "natural confusion"), cert. denied, 464 U.S. 918 (1983); Flannery & Robbins, *supra* note 38, at 778 (most pro se litigants are unable to properly construe procedural rules).

Aware of the disparity in legal skills between attorneys and laymen, few individuals are able to afford assistance of counsel choose to proceed pro se. It is not surprising, then, that most pro se litigants represent themselves because of an economic inability to procure counsel. The inability of a substantial portion of American society to gain access to attorney assistance has been deemed one of the glaring failures of our system, straining the principle of equal justice under the law. The causes of this problem are numerous. Indigents have no constitutional or statutory right to counsel in a civil case and no such right in habeas corpus proceedings unless absence of counsel would render the proceeding fundamentally unfair.

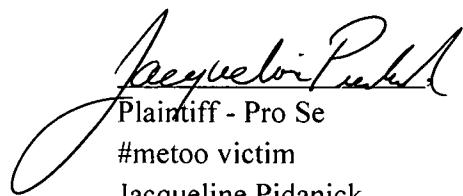
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Furthermore, there is no mandate by the American Bar Association requiring attorneys to perform pro bono work.

The increase in billable hours expected by law firms from their attorneys has dampened the incentive of many attorneys to pursue pro bono work. Thus, it is difficult for an indigent litigant to find an attorney willing to handle civil cases. Forceful economic arguments have been directed at this contention, asserting that a meritorious claim always will find an attorney. Judge Posner asserts that rather than presume that counsel should be appointed in civil cases, courts should "subject the probable merit of [the] case to the test of the market." This argument contends that a litigant who is unable to retain counsel on a contingent fee does not have a meritorious case. This argument is problematic, as pro se litigants face serious difficulties in retaining counsel, even on a contingent fee basis. The pro se litigants in most cases have a merit case but due to legal terminology and producers being hard to learn and read, litigants are at a loss, with their right to use the court system blocked. The corrupt agents of the system feed off this problem, even though all judges and officials know this abuse of the courts is happening.

Therefore, because the pro se victim plaintiff did everything in her power to file correctly she should be allowed to file. I ask the honorable court/clerk to please file the plaintiff's Writ Of Certiorari out of time. Thank you to the honorable court for the ability to file with cause.

Respectfully,


Plaintiff - Pro Se
#metoo victim
Jacqueline Pidanick
262 Old Bridge dr.
Bluffton, SC 29910

UNPUBLISHED**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 18-1817

JACQUELINE PIDANICK,

Plaintiff - Appellant,

v.

CHRISTOPHER MADDALONI; MARSHALL HORTON; HORTON AND GOODMAN LLC, a South Carolina Limited Liability Corporation,

Defendants - Appellees,

and

PAUL C. LAROSA, III, individually and in his official capacity; CHRIS SANKOWSKI, individually and in his official capacity,

Defendants.

Appeal from the United States District Court for the District of South Carolina, at Beaufort. David C. Norton, District Judge. (9:17-cv-00281-DCN)

Submitted: November 15, 2018

Decided: November 19, 2018

Before MOTZ and HARRIS, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Jacqueline Pidanick, Appellant Pro Se. Mark S. Berglind, VAUX & MARSCHER, PA, Bluffton, South Carolina; Joseph C. Wilson, IV, PIERCE, SLOAN, WILSON, KENNEDY & EARLY LLC, Charleston, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jacqueline Pidanick appeals the district court's order dismissing her civil complaint. The district court referred this case to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (2012). The magistrate judge recommended that relief be denied and advised Pidanick that failure to file timely, specific objections to this recommendation would waive appellate review of a district court order based upon the recommendation.

The timely filing of specific objections to a magistrate judge's recommendation is necessary to preserve appellate review of the substance of that recommendation when the parties have been warned of the consequences of noncompliance. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985); *see also Thomas v. Arn*, 474 U.S. 140 (1985). Pidanick has waived appellate review by failing to file objections after receiving proper notice. Accordingly, we affirm the judgment of the district court. We deny Pidanick's motion to seal the discovery materials in a separate civil action, as the motion should be filed in the district court handling that case.

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

FILED: December 18, 2018

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-1817
(9:17-cv-00281-DCN)

JACQUELINE PIDANICK

Plaintiff - Appellant

v.

CHRISTOPHER MADDALONI; MARSHALL HORTON; HORTON AND GOODMAN LLC, a South Carolina Limited Liability Corporation

Defendants - Appellees

and

PAUL C. LAROSA, III, individually and in his official capacity; CHRIS SANKOWSKI, individually and in his official capacity

Defendants

O R D E R

The court denies the petition for rehearing.

Entered at the direction of the panel: Judge Motz, Judge Harris, and Senior Judge Hamilton.

For the Court

/s/ Patricia S. Connor, Clerk

FILED: December 26, 2018

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-1817
(9:17-cv-00281-DCN)

JACQUELINE PIDANICK

Plaintiff - Appellant

v.

CHRISTOPHER MADDALONI; MARSHALL HORTON; HORTON AND GOODMAN LLC,
a South Carolina Limited Liability Corporation

Defendants - Appellees

and

PAUL C. LAROSA, III, individually and in his official capacity; CHRIS SANKOWSKI,
individually and in his official capacity

Defendants

M A N D A T E

The judgment of this court, entered November 19, 2018, takes effect today.

This constitutes the formal mandate of this court issued pursuant to Rule 41(a) of the
Federal Rules of Appellate Procedure.

/s/Patricia S. Connor, Clerk

**Additional material
from this filing is
available in the
Clerk's Office.**