

NOT RECOMMENDED FOR PUBLICATION

No. 19-6017

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

EDWARD RONNY ARNOLD) ON APPEAL
Plaintiff-Appellant,) FROM THE
v.) UNITED STATES
HERBERT SLATERY, III) DISTRICT
Defendant-Appellee.) COURT FOR
) THE MIDDLE
) DISTRICT OF
) TENNESSEE
)
)

O R D E R

Before: COOK and THAPAR, Circuit Judges:
HOOD, District Judge.¹

Edward Ronny Arnold, a pro se Tennessee resident, appeals a district court judgment dismissing his civil rights complaint filed pursuant to

¹ The Honorable Joseph M. Hood, United States District Judge for the Eastern District of Kentucky, sitting by designation.

42 U.S.C. § 1983. This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. *See Fed. R. App. P. 34(a).*

In 2015, the Tennessee governor exercised his discretion to substitute the Friday after Thanksgiving Day for Columbus Day, for purposes of closing state offices. See Tenn. Code. Ann. § 4-4-105(a)(3). As a result, Arnold, then a state employee, worked on Columbus day, October 12, 2015. But on November 24, 2015---before the substituted holiday on November 27, 2015---Arnold's state employment ended as part of a reduction-in-force. Arnold filed suit in state court

against Tennessee Department of General Services Commissioner Bob Oglesby (“The Commissioner”) seeking wages for working Columbus Day. Attorney General of Tennessee Herbert Slatery III, defending the Commissioner, moved to dismiss the complaint based on sovereign immunity. The general sessions and circuit court granted the motion to dismiss, but the Tennessee Court of Appeals reversed and remanded the case to the trial court. *See Arnold v. Oglesby*, No. M2017-00808-COA-R3-CV, 2017 WL 5634249, at *3 (Tenn. Ct. App. Nov. 22, 2017), *perm. app. denied* (Tenn. Feb. 14, 2018).

In December 2018, Arnold sued Slatery in federal court, claiming that he was denied the right of a jury trial and the right to present evidence to

the trial court. Arnold alleged that Slatery: (1) “wrote a court order, filed May 31, 2018 ... deliberatley [sic] misclassifiyng [sic] the case as Appeal from General Session in an attempt to prevent evidence from being submitted to the trial court”; and (2) wrote “non-jury” on the state-court order, improperly indicating that the case was a non-jury trial. As relief, Arnold requested that the district court: (1) stay the state trial court proceedings; and (2) “overturn” the May 31, 2018, court order filed in the Circuit Court for Davidson County, Tennessee. The defendant moved to dismiss the compliant for want of subject matter jurisdiction based on the *Roker-Feldman* doctrine,² for lack of standing, and for failure to state a claim because there is no federal right to a jury trial in a state court civil lawsuit. Arnold responded in

² See *D.C. Court of Appeals v. Feldman*, 460 U.S. (1983); *Rooker v. Fid. Tr. Co.*, 263 U.A. 413 (1923).

opposition, arguing that the court had jurisdiction pursuant to 28 U.S.C. § 1331.

A magistrate judge recommended that the district court dismiss the complaint under Federal Rule of Civil Procedure 12(b)(1) for lack of subject matter jurisdiction because Arnold's complaint establishes that the source of his injury is the May 31, 2018, state court order. The district court overruled Arnold's objections, adopting the magistrate judge's recommendation, and dismissed the complaint.

On appeal, Arnold argues that the district court erred by dismissing his complaint for lack of subject matter jurisdiction and failing to address the alleged denial of his constitutional right to a jury trial. He continues to argue that the defendants improperly wrote the May 31, 2018, scheduling order because the order ‘included elements, which are not discussed, during the First Case Management and Scheduling Conference held April 25, 2018” and because the May 2018 order ignored the fact that his case was stayed 120 days after it was remanded by the Tennessee Court of Appeals. He also argues that the court misinterpreted his civil action and erroneously stated that he was an employee of the defendant. Finally, he argues that the district court erred by denying his request to stay the court proceedings. Arnold requests oral argument.

We review de novo a district court’s dismissal of a complaint for lack of subject matter jurisdiction under Rule 12(b)(1). *Amburgey v. United States*, 733 F.3d 633, 636 (6th Cir. 2013). “Where the subject matter jurisdiction is challenged pursuant to Rule 12(b)(1), the plaintiff has the burden of proving jurisdiction in order to survive the motion.” *Moir v. Greater Cleveland Reg ’/ Transit Auth*, 895 F.2d 266, 269 (6th Cir. 1990).

The district court properly concluded that Arnold’s complaint is barred by the *Rooker-Feldman* doctrine. Under this doctrine, a federal district court must not entertain a case brought by a litigant who lost in state court and seeks an appellate review of the decision by a federal court. See *Feldman*, 460 U.S. at 482; *Rooker*, 263 U.S. at 415-16. The doctrine

is confined to cases that are “[1] brought by state courts [2] complaining of injuries caused by state-court judgements [3] rendered before the district court proceedings commenced and [4] inviting district court review and rejection of those judgements.” *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005). *Exxon* emphasized the “limited” applicability of the doctrine. *Id.* At 291. As this court has held, “[i]f the source of the injury is the state court decision, then the *Rooker-Feldman* doctrine would prevent the district court from asserting jurisdiction. If there is some other source of injury, such as a third party’s actions, then the plaintiff asserts an independent claim.” *McCormick v. Braverman*, 451 F.3d 382, 393 (6th Cir. 2006); see also *Coles v. Granville*, 448 F.3d 853, 858 (6th Cir. 2006).

Although Arnold challenged the defendant's filing of an allegedly inaccurate proposed scheduling order, the district court properly determined that the source of Arnold's injury was the entry of the order. Arnold claimed that the *filng* of the order impeded his right to a jury trial and prevented him from presenting evidence to a jury in the trial court. But Arnold's request for relief establishes that the true source of his injury is the *entry* of the order because he requested that the district court stay and ultimately overturn the order. Likewise, in his opposition to the defendant's motion to dismiss, Arnold argued that he "has alleged significant facts in the Compliant to compel the court to overturn [the] order, the *Rooker-Feldman* doctrine presents the district court from

asserting jurisdiction. *See McCormick*, 451 F.3d at 393.

Because the district court lacked jurisdiction, neither the court nor this one can decide the merits of Arnold's jury trial claim. *See Steel Co. v. Citizen's for a Better Env't*, 523 U.S. 83, 93-95 (1998). That said, even if the *Rooker-Feldman* doctrine were inapplicable, it is clear that Arnold's compliant would be subject to dismissal under Rule 12(b)(6) for failure to state a claim upon which relief could be granted. Arnold's allegations fail to state a federal claim because there is no legal right to a jury trial in a state court lawsuit. *See, e.g., Gasoperini v. Ctr. For Humanities, Inc.*, 518 U.S. 415, 432 (1996); *GTM, LLC. V. TKN Sales, Inc.* 257 F3d 235, 240 (2d Cir. 2001); *Hawkins v. Czarnecki*, No. 96-2437, 1998 WL 57333, at *4 (6th Cir.

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Feb 2, 1998); *Elliott v. City of Wheat Ridge*, 49 F3d 1458, 1459-60 (10th Cir. 1995).

We DENY the request for oral argument and AFFIRM the district court's judgment dismissing the case for lack of subject matter jurisdiction.

ENTERED BY ORDER OF THE COURT.

/s/ Deborah S. Hunt

Deborah S. Hunt, Clerk

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

EDWARD RONNY ARNOLD)
)
Plaintiff,) NO. 3:18-cv-01350
v.)
)
) JUDGE
)CAMPBELL
)
HERBERT SLATERY, III ,) MAGISTRATE
State of Tennessee Attorney) JUDGE
General and Reporter,) NEWBERN
)
Defendant.)
)

ORDER

Pending before the Court is the Magistrate Judge's Report and Recommendation (Doc. No. 11), recommending that the Court grant Defendant's Motion to Dismiss (Doc. No. 7). The *pro se* plaintiff filed objection (Doc. No. 12), and Defendant responded to Plaintiff's objections (Doc. No. 13). The

Magistrate Judge recommends the Complaint be dismissed for lack of subject matter jurisdiction. After a *de novo* review, and for the following reasons, Plaintiff's objections are OVERRULED and the Report and Recommendation is ADOPTED.

I. STANDARD OF REVIEW

Under 28 U.S.C. § 636(b)(1) and Local Rule 72.03(b)(3), a district court reviews *de novo* any portion of a report and recommendation to which a specific objection is made. *United States v. Curtis*, 237 F.3d 598, 603 (6th Cir. 2001). General or conclusory objections are insufficient. *See Zimmerman v. Cason*, 354 F. Appx. 228, 230 (6th Cir. 2009). Thus, "only those specific objections to the magistrate's report made to the district court will be preserved for appellate review." *Id.* (quoting *Smith v.*

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Detroit Fed'n of Teachers, 829 F.2d 1370, 1373 (6th Cir. 1987)).

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In conducting the review, the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(c),

II. ANALYSIS

Plaintiff filed a complaint on December 6, 2018 (Doc. No. 1) seeking the following relief: (1) stay a pending state court proceedings "until the jury can overturn the court order submitted"; and (2) "[o]verturn the [state] court order file4d May 31, 2018." The Magistrate Judge determined the Court does not have subject-matter jurisdiction over Plaintiff's claims and recommended that the Court dismiss the Compliant.

Plaintiff objected to the Report and Recommendation on the grounds that the Magistrate Judge (1) "inaccurately presented the case history";

(2) erred in dismissing the case for lack of subject matter jurisdiction; (3) misapplied the Rooker-Feldman Doctrine, and (4) erred in denying Plaintiff's stay of the state court proceeding. (Doc. No. 12).

As discussed thoroughly by the Magistrate Judge, the Rooker-Feldman Doctrine prohibits lower federal courts from exercising appellate review over state court judgments. See *District of Columbia Court of Appeals v. Feldman*, 460 U.S. (1983) and *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923). The Doctrine applies even if the party challenges the validity of the state court judgment on constitutional grounds. *Lawrence v. Welch*, 531 F.3d 364, 369 (6th Cir. 2008). In other words, if the claim can only succeed to the extent the state court wrongly decided the issues before it, the district court does not have

jurisdiction. *Peterson Novelties, Inc. v. City of Berkley*, 305 F.3d 386, 391 (6thy Cir. 2002). Plaintiff's claims, which allege injury as a result of a state order descision and ask the Court to stay the state court proceeding and overturn the state court decision, directly implicates Rooker-Feldamn. Moreover, the Supreme Court has explained that 28 U.S.C. § 1331 "does not authorize district courts to exercise appellate jurisdiction over

state-court judgments, which Congress has reserved to this Court." Verizon Md., Inc. v. Pub. Serv. Comm'n of Md., 535 U.S. 635, 644 n.3 (2002).

Plaintiff does not cite specific examples of how the Magistrate Judge "inaccurately presented the case history" or explain how it impacted the jurisdiction analysis. As stated above, based on the relief sought by Plaintiff, this Court does not have subject matter jurisdiction to hear the claims or to stay the state court proceeding.

III. CONCLUSION

The Court has reviewed the Report and Recommendation and concludes that it should be ADOPTED and APPROVED. Accordingly, Defendant's Motion to Dismiss is GRANTED. This

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Order shall constitute the final judgment in this case
pursuant to Fed. R. Civ. P. 58.

It is ORDERED.

/s/ William L. Campbell, Jr.

WILLIAM L. CAMPBELL, JR.
UNITED STATES DISTRICT JUDGE

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IN THE SIXTH CIRCUIT COURT FOR
DAVIDSON COUNTY, TENNESSEE

EDWARD RONNY ARNOLD)
)
Plaintiff, Appellant) Docket No.
) M2017-00808-
) COA-RS-CV
) Docket No. 17C133
v.)
)
BOB OGLESBY, Et Al.)
)
Defendant, Appellee.)

PLAINTIFF / APPELLANT'S NOTIFICATION OF
VIOLATION OF TENNESSEE RULE OF
APPELLETE PROCEDURE 11 AND VIOLATION
OF DUE PROCESS

Comes Edward Ronny Arnold, Pro Se, with
notification to the court of a violation of Tenn. R. Civ.
P. 11 in the case of *Edward Ronny Arnold v. Bob*

Oglesby, Et. Al., M2017-00808-COV-R3-CV (Tenn.

*Ct. App. 2017) as remanded from the Tennessee
Court of Appeals for the Middle District at Nashville.*

The Order issued for the Sixth Case Management
and Scheduling Conference held April 26, 2019
incorrectly provided dates which are in violation of
Tenn. R. Civ. P. 11 and incorrectly stated the
Plaintiff / Appellant gave up a right for notification of
a pending Motion for Summary Judgement because
he does not recognize personal e-mail as a method of
conducting court business.

An appeal to the trial court's order to dismiss the
Plaintiff / Appellant's Motion to Compel was filed
April 1, 2019 to the State of Tennessee Court of
Appeals for the Middle District at Nashville and

dismissed as a TRAP 9 April 8, 2019 neither with or without prejudice.

In this case, the court order of the State of Tennessee Court of Appeals for the Middle District at Nashville was not mandated as of the proceeding of the Sixth Case Management and Scheduling Conference held April 26, 2019. The Court Order filed June 11, 2019 was in due deference to an Application to Appeal to the State of Tennessee Supreme Court.

During this proceeding, the Special Master set dates which are in violation of Tenn. R. Civ. 11. These dates, as filed, are not valid. In this case, an Application to Appeal was filed in the Tennessee Supreme Court May 6, 2019. The decision of the State of Tennessee Court of Appeals for the Middle

Division of Tennessee, if not appealed, was not mandated until May 8, 2019.

As of July 10, 2019, the Tennessee Supreme Court has neither accepted or denied the Application to Appeal. The Application to Appeal seeks to overturn the court ruling the Plaintiff / Appellant must add the State of Tennessee Department of Finance and Administration to the civil action of *Edward Ronny Arnold v. Bob Oglesby, Et. Al.*, *M2017-00808-COV-R3-CV* (Tenn. Ct. App. 2017) as remanded from the Tennessee Court of Appeals for the Middle Division of Tennessee to obtain interrogatories of persons who are currently employed with the State of Tennessee but not currently employed with the State of Tennessee Department of General Services.

**APPEAL TO THE STATE OF TENNESSEE COURT
OF APPEALS FOR THE MIDDLE DIVISION OF
TENNESSEE AT NASHVILLE WAS NOT
MANDATED**

The Special Master and Defendant / Appellee, as represented by the State of Tennessee Office of the Attorney General and Reporter, were aware of an appeal filed in the State of Tennessee Court of Appeals as a TRAP 9 on April 1, 2019. This appeal sought to overturn the ruling the Plaintiff / Appellant must add the State of Tennessee Department of Finance and Administration to the civil action to secure interrogatories.

The Special Master and Defendant / Appellee, as represented by the State of Tennessee Office of the Attorney General and Reporter, were aware of an attempt to file an Application to Appeal to the State of Tennessee Supreme Court on the previous day,

April 25, 2019. As stated by the Plaintiff / Appellant, on two separate occasions the Appellate Court Clerk of the State of Tennessee Supreme Court gave incorrect information as the Plaintiff / Appellant was instructed to file a TRAP 3 not a TRAP 9. Evidence of the attempt to file the Application to Appeal to the Tennessee Supreme Court as a TRAP 3 was presented to the Special Master, a completed TRAP 3 form and Certified Check to the Court Clerk, the Application to Appeal to The Tennessee Supreme Court as a TRAP 9 would be filed before the mandated date of May 8, 2019.

The Application to Appeal to the State of Tennessee Supreme Court was filed May 6, 2019 - Appeal No. M2019-00570-COA-R9-CV on Appeal from Sixth Circuit Court for Davidson County,

Tennessee Case No. 17C133. Honorable Thomas W. Brothers, Judge.

As of July 10, 2019, the State of Tennessee Supreme Court has neither accepted or denied the Application to Appeal.

**SPECIAL MASTER'S COMMENTS ARE
PREJUDICIAL TO THE
PLAINTIFF / APPELLANT**

During the proceedings of the Sixth Case Management and Scheduling Conference, the Special Master made two comments which are prejudicial to the Plaintiff / Appellant. These two comments were witnessed by the Attorney of Record for the Defendant / Appellee, representing the State of Tennessee Office of the Attorney General and Reporter. When the Special Master began to calculate dates, the Special Master was reminded of

an appeal to be filed to the State of Tennessee Supreme Court.

The Special Master's comment, "The Supreme Court will not hear it so I am setting the dates," is prejudicial to the Plaintiff / Appellant, Pro Se.

When the Plaintiff/Appellant refused to accept a personal e-mail notice of a possible Motion for a Summary Judgment, thirty days prior to the trial date of September 11, 2019, the Special Master ordered the Attorney of Record to 'Not' mail the Plaintiff / Appellant a notification of the filing.

The Special Master's statement, "Then you won't know," was interpreted by the Plaintiff / Appellant, Pro Se, as a barb toward the civil action in the United States District Court *Edward Ronny Arnold v. Herbert Slattery, III. No. 3:18-cv-20080.*

This civil action *Edward Ronny Arnold v. Herbert Slattery, III. No. 3:18-cv-20080* before the United States District Court, as stated in the brief to the court, involves the Defendant filing electronically and not notifying the Plaintiff, Pro Se, of the action by mailing a paper copy. As stated in the brief to the court, this action or inaction was done deliberately to prevent the Plaintiff from responding in the allotted time.

The adverse ruling of the United States District Court, the Defendant met all requirements of Certificate of Service by electronic filing has not mandated as it is currently on appeal to the United States District Court for the Sixth District in the case of *Edward Ronny Arnold v. Herbert Slattery III, No. 19-5509.*

**PERSONAL E-MAIL IS NOT SANCTIONED BY
TENNESSEE COURTS**

In this case, as shown by the comment section (Appendix A, Appendix B.), the Special Master ruled the Plaintiff / Appellant gave up his right to notice by refusing to use personal e-mail for official court business. Footnote 1 incorrectly identifies the e-mail as related to a case management conference. The comment was made when the Attorney of Record stated he would send to the Plaintiff / Appellant an e-mail notification of the Motion for Summary Judgment.

The Plaintiff / Appellant rejected the use of personal e-mail as a method to conduct court business.

Personal e-mail is not accepted as a method to conduct official business in Tennessee Courts. The issue of Pro Se litigants, limiting their access to the courts through the use of electronic filings, is currently before the United States Court of Appeals for the Sixth Circuit in the case of *Edward Ronny Arnold v. Herbert Slatery III*. No. 19-5509. The court's approval violates the Plaintiff / Appellant's right to due process and restricts low-income, fixed-income litigants access to the courts if they do not have a personal e-mail address.

**THE PLAINTIFF / APPELLANT DID NOT GIVE
UP HIS RIGHT
TO DUE PROCESS**

Tennessee courts have not sanctioned personal e-mail as a method to conduct court business and the Plaintiff / Appellant's verbal objection to using personal e-mail to conduct court business does not constitute the removal of the Constitutional right to due process.

CONCLUSION

This civil action began November 23, 2016 to recover earned wages in the amount of \$180.00 minus withholding and is approaching a period of three years. There are currently three appeals to the State of Tennessee Court of Appeals denied as a TRAP 9 which are eligible for a TRAP 3. One appeal is the incorrect designation of the case as Appeal from General Sessions to prevent the introduction of

the Defendant / Appellee's failed use of sovereign immunity as a defense.

It should be noted before the court, the Defendant / Appellee's defense of Sovereign Immunity, as codified in Tenn. Code. Ann. § 20-13-102 (a), was not upheld by the Tennessee Court of Appeals in the case of *Edward Ronny Arnold v. Bob Oglesby, et al.* *M2017-00808-COA-R3-CV.* (Tenn. Ct. App. 2017) to which the opinion was the Defendant / Appellant was not acting on the authority of the State in withholding earned wages and the case was remanded back to the trial court (Opinion Page 4).

The trial court's ruling it did not have subject matter jurisdiction based on Tenn. R. Civ. P. 12.02 (1) was overturned and the case remanded back to the trial court (Opinion page 4).

The Defendant / Appellee, as represented by the State of Tennessee Office of the Attorney General and Reporter, did not deny in his Motion to Dismiss the Plaintiff / Appellant was owed wages for the substituted federal holiday of Columbus Day, the second Monday in October, for the substituted state holiday the Friday after Thanksgiving, the fourth Thursday in November.

At this time, this information cannot be admitted into this court as the Defendant / Appellee designated the case as Appeal from General Session instead of Complex. This ruling is in the process of appeal in the United States District Court for the Middle District of Tennessee Nashville Division in the case of *Edward Ronny Arnold v. Herbert Slatery III, State of Tennessee Attorney General and Reporter* Case No. 3:18-cv-01350.

Elements of this case are currently before the State of Tennessee Supreme Court, United States District Court for the Middle District of Tennessee Nashville Division, the United States Court of Appeals for the Sixth Circuit and a pending appeal to the United States Supreme Court.

The selection of dates, including the trial date, are not valid as the appeal before the State of Tennessee Court of Appeals had not mandated and the State of Tennessee Supreme Court has not denied or accepted the Application to Appeal to overturn the trial court's order the Plaintiff / Appellant must add the State of Tennessee Department of Finance and Administration to the case of *Edward Ronny Arnold v. Bob Oglesby, et al.* M2017-00808-COA-R3-CV. (Tenn. Ct. App. 2017) to obtain interrogatories of individuals who were

employed by the State of Tennessee Department of General Services but are now employed in a different department within the State.

The verbal order from the Special Master to the Attorney of Record, as a representative of the State of Tennessee Office of the Attorney General and Reporter, to 'Not' send the Plaintiff / Appellant a copy of the Motion for Summary Judgment is a violation of Certificate of Service and a violation of due process. As stated in the brief to the United States District Court for the Sixth Circuit in the case of *Edward Ronny Arnold v. Herbert Slatery III, No. 19-5509* (p. 4):

"An elementary and fundamental requirement of due process in any proceeding, which is to be accorded finality, is notice reasonably calculated, under all the circumstances, to

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Respectfully submitted this _____ day July, 2019:

EDWARD RONNY ARNOLD

/s/ Edward Ronny Arnold

By: _____
Edward Ronny Arnold, Pro Se
5036 Suter Drive
Nashville, Tennessee 37211

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the
foregoing PLAINTIFF / APPELLANT'S
NOTIFICATION OF VIOLATION OF TENNESSEE
RULE OF APPEALETE PROCEDURE 11 AND
VIOLATION OF DUE PROCESS in the case of
EDWARD RONNY ARNOLD V. BOB OGLESBY, ET
AL M2017-00808-COA-RS-CV (TENN. CT. APP.
2017) as Remanded to the Sixth Circuit Court
Davidson County, Tennessee has been served upon
counsel for Defendant/Appellee by U.S. Mail, postage
prepaid, addressed to:

Taylor Jenkins
Assistant Attorney General
Civil Litigation and State Services Division
P.O. Box 20207
Nashville, Tennessee 37202-0207

On this the _____ day of July, 2019

/s/ Edward Ronny Arnold

Edward Ronny Arnold, Pro Se
5036 Suter Drive
Nashville, Tennessee 37211
(615) 999-8044

(ORDER LIST: 589 U.S.)

THURSDAY, MARCH 19, 2020

ORDER

In light of the ongoing public health concerns relating to COVID-19, the following shall apply to cases prior to a ruling on a petition for a writ of certiorari:

IT IS ORDERED that the deadline to file any petition for a writ of certiorari due on or after the date of this order is extended to 150 days from the date of the lower court judgment, order denying discretionary review, or order denying a timely petition for rehearing. See Rules 13.1 and 13.3.

IT IS FURTHER ORDERED that motions for extensions of time pursuant to Rule 30.4 will ordinarily be granted by the Clerk as a matter of course if the grounds for the application are

difficulties relating to COVID-19 and if the length of the extension requested is reasonable under the circumstances. Such motions should indicate whether the opposing party has an objection.

IT IS FURTHER ORDERED that,

notwithstanding Rules 15.5 and 15.6, the Clerk will entertain motions to delay distribution of a petition for writ of certiorari where the grounds for the motion are that the petitioner needs additional time to file a reply due to difficulties relating to COVID-19. Such motions will ordinarily be granted by the Clerk as a matter of course if the length of the extension requested is reasonable under the circumstances and if the motion is actually received by the Clerk at least two days prior to the relevant distribution date. Such motions should indicate whether the opposing party has an objection.

IT IS FURTHER ORDERED that these modifications to the Court's Rules and practices do not apply to cases in which certiorari has been granted or a direct appeal or original action has been set for argument.

These modifications will remain in effect until further order of the Court.