

19-5511

No. _____

Supreme Court, U.S.
FILED

MAY 27 2019

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES OF AMERICA

Mr. Robert Jessie Hill — PETITIONER
(Your Name)

vs.

"Three Kitsap County Jail Guards" — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

US Court of Appeals for Ninth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Mr. Robert J. Hill

(Your Name)

Inmate # 79123 @ "T.C.C.F."
3491 FERLUSON ST SW

(Address)

Actual
physical
address

TUMWATER WA 98512-6127

(City, State, Zip Code)

X

(Phone Number)

when released →

Unit # A-277

2522 North-Proctor ST

TACOMA WA 98400-9999

ORIGINAL

QUESTION(S) PRESENTED

1. Are incarcerated persons plaintiffs in civil cases in U.S. District Court unfairly treated, color prejudiced against, because they are not given notice of the thirty days requirement of Fed. Rules App. Proc. Rule 4(c) (or Rule 26(b)) nor 28 U.S.C. 2107(c), in either:
 - A) a District Court order dismissing the case, or
 - B) supplementary material provided by the clerk in the same envelope as the above order, or a different envelope within seven days of the first envelope?

2. Are incarcerated persons plaintiffs in civil cases in U.S. District Court unfairly treated, color prejudiced against, because they are not provided notice of their existence - forms 1, 4, 4, 7 (from the Appendix of F.R.C.P.) in the envelope mailed by the clerk which includes the order of dismissal or a separately-mailed envelope within seven days of the first one, nor provided any notice of how to obtain them?

3.A) Should the U.S. Supreme Court modify Rule 77(d)(2) or Rule 58 of the Fed. Civil Rules-Procedure?

or both, giving incarcerated ~~pro se~~ civil litigants notice in an order dismissing a case and/or supplementary material produced/provided by the clerk; of the existence of:

- "FRAP 4(a)" and
- "FRAP 26(b)" and
- "28 U.S.C. 2107(a)"?

3. B) If 3A is "yes," should the texts of the above rules & statute be included?

4. A) Does the failure of a District Court order dismissing a civil case, where one of the parties is an incarcerated ~~pro se~~ litigant at the time of the receipt of such order; to give notice of the existence of either FRAP Rule 4(a) or 28 U.S.C. 2107(a), constitute a violation of the Due Process clause of the Fourteenth Amendment to the U.S. Constitution?

4. B) If 4A is "yes," is such a violation sufficient to provide 'Petitioner Hill' the relief of overturning the Court of Appeals' order of 2019-~~MAY~~^{FEB-28} and District Court's order of 2018-MAY-02?

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

☒ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

"RESPONDENTS":

1. Dave Janssen
2. Michael Allen Hetzel
3. Richard Fitzwater

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	7
CONCLUSION.....	9

INDEX TO APPENDICES

APPENDIX A	Order Dismissing case on February 28, 2019 by U.S. Court of Appeals Ninth Circuit	10
APPENDIX B	Mandate of March 22, 2019 by U.S. Dist. Court, District of Columbia, for Ninth Circuit	12
APPENDIX C	Order Granting Motion to Dismiss, filed May 1, 2018 in Western Washington District, Seattle.	14
APPENDIX D	Judgment in a civil case, filed May 2, 2018 in Western WA District, U.S. District Court	16
APPENDIX E		
APPENDIX F		

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

U.S. v. Robinson, 361 U.S. 220, 224
Bowler v. Russell, 551 U.S. 205
U.S. v. Sodler, 480 F.3d 932, 937
Browder v. Director DOC, 434 U.S. 257, 264
Alley v. Dodge Hotel, 501 F.2d 880
Corleske v. U.S., 517 U.S. 416
Neutraceutical Corp v. Lambert, 139 S.Ct. 710

STATUTES AND RULES

28 U.S.C. 2107(a)
FRAP 4(a), FRAP 26(b), FRAP 3
Fed. Rules, Civil Proc Rules 77(d)(2), 58

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES OF AMERICA
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

★ ☐ reported at 2019 U.S. App LEXIS 6234; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the United States district court ^{as reproduction} appears at Appendix B to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was February 28, 2019.

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☒ An extension of time to file the petition for a writ of certiorari was granted to and including Aug. 7, 2019 (date) on June 5, 2019 (date) in Application No. A. *Letter by Clement Hissink, Jr.*

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. Fourteenth Amendment to U.S. Constitution.
2. 28 U.S.C. 2107(e)

STATEMENT OF THE CASE

While incarcerated in Pierce County Jail during July, 2017 Petitioner Hill conspired to file with the "AA PROCESS SERVICES" company in U.S. District Court for Western Washington District, at Tacoma, a 42 U.S.C. 1983 complaint against "Three Kitzcoer County Jail Guards." The filing fee was provided to this company by a forty number; the check no. is C17-5586. The fee was also by this company, "Yuma State," mistakenly file a copy of a separate libel suit against a newspaper reporter, that was pending in Superior Court of Washington State, as the suit. Plaintiff Hill utilized the provision of Federal Rules Civil Procedure for one true consent, by having state to file correct original federal lawsuit in its entirety. (Court for Defendants - Tom George, Kitzcoer County Prosecutor's Office, filed motion to dismiss. While Hill was incarcerated at Washington State Penitentiary (Wall Wall) in early 2018, he filed brief of declaration against Hill was incarcerated from April 10 to May 6, 2018 at Scope Jail (Des Moines). On Friday, May 4, Hill received the District Court's May 2nd order of dismissal. The order included language that

Hill's failure to object to Defendant's Summary Judgment motion was being construed as admitting the truth thereof. Hill was previously given a deadline of Friday, May 4 to file such an objection; and did so on either May 2 or May 3. The court, therefore, tricked Hill out of a proper challenge!

On Sunday, May 6th, 2018, Hill was transported to Thurston County Jail (Tumwater). (He posted bail on Oct 25, 2018.) During the first four weeks he submitted four yellow 8 1/2 x 11-inch Kites to access the CD-Rom Law Library computer. Hill was never provided access to such library. Approximately June 6, Hill logged into a computer tablet for the 'CC' housing unit, which was held/stored in a room adjacent to the main dayroom and required special access. While using the tablet, he discovered on icon that said, "Law Library." Of course, "June 6/18" was the thirtieth day to file a Notice of Appeal; and Hill failed to do so by this date. He thought he had "90" days, like a Misdemeanor sentence. At no time were any notices posted in the housing unit's windows (inside or out) stating that the CD-Rom Law ~~Library~~

Library was being "discontinued" as of any date.
None of the four Kites were ever returned to Hill.

The May 2nd order did not include the text of FRAP Rule 4(c) nor Rule 26(b) nor 28 U.S.C. 2107(c). It did not mention any of these three items or the words "thirty (30) day limit" for filing Notice of ^{Civil} Appeal.

There was no document produced/provided by the Clerk (in any envelope) which included the text or name/label of the above items.

There were no FRAP Appendix Forms '1', '4', or '7' included in the envelope that included the District Court dismissed order, nor mention of their existence.

REASONS FOR GRANTING THE PETITION

Had Petitioner Hill been given some kind of notice that "30" days was the limit within which to file a Notice of Appeal, he would certainly have done so! Hill did not discover the rule that states this specific number until it was too late. Hill was an incarcerated ~~pr se~~ litigant (plaintiff) on the day he received the order of dismissal and during the entire thirty-day period. He was frustrated by the Thurston County Jail in obtaining this information. Hill thought he had ninety days.

The Federal Rules of Appellate Procedure is a differently numbered set of rules than those of the Federal Rules of Civil Procedure. There is no connect, or "mention", in F.R.C.P. of the FRAP Rule 4(c) or 28 USC 2107(c). Furthermore, there is no mention in the F.R.C.P. of the FRAP Rule 26(b), which says there can be no extension of the thirty days for appeal notices.

There should be a simple directive in either

F.R.C.P. Rule 58 and/or Rule 77(d) that assists incarcerated ~~prison~~ litigants in being aware of the short, 30 day time limit for filing a Notice of Appeal → and its importance & rigidity.

"Timely filing is jurisdictional and mandatory."

Access to Jail Law Libraries can be very restrictive. Why can't an order of dismissal... completely terminating the process of a lawsuit... mention something "FRAP 4(c)" and "28 USC 2107(c)" and "thirty day time limit to file notice of appeal"? Why can't the Clerk mail the forms, or at least mention their existence in supplementary material mailed to the inmate, either the same envelope as the order of dismissal or another one within a few days? :

- Form '1', a blank Notice of Civil Appeal
- Form '4', an affidavit for requesting IFP for filings in Court of Appeals
- Form '7' the declaration by an inmate for declaration of date of mailing & nature of pre-paid postage. [28 U.S.C. 1746]

CONCLUSION

The petition for a writ of certiorari should be granted, and the court rules amended.

Respectfully submitted,

★ M. R. Hill ★ Mr. Robert Jesse Hill, petitioner

Date: Monday May Twenty-seventh, AD-2019