19-5984 ORIGINAL

IN THE
UNITED STATES SUPREME COURT
NO.
OCTOBER TERM, 2019

DANIEL H. JONES
Petitioner
Vs.
CLAUDIA C. BONNYMAN,
Part-1, Chancellor, et, al.
Respondents

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT AT CINCINNATI , OHIO
No. 19-5209

Petitioner, Daniel H. Jones, pro se, respectfully prays that a writ of certiorari issue to review the judgment and Order of the Appellate Court of the State of Ohio for the Sixth Judicial District, entered on August 23, 2019..

Daniel H. Jones, Petitioner, #443638
Turney Center Industrial Complex
1499 R.W. Moore Memorial Hwy.
Only, Tennessee 37140-4050

Inmate pro se

QUESTIONS PRESENTED FOR REVIEW

I.

DID THE U.S. SIXTH CIRCUIT COURT OF APPEALS ERR IN DENYING THE PETITIONER'S ABSOLUTE RIGHT IN FILING AS WELL AS TO APPEAL HIS CIVIL ACTION IN FORMA PAUPERIS, CONSISTENT WITH 28 USC §1915(a) (2) & (4)?

II.

DID THE LOWER APPELLATE COURT INTERVENE WITH ACTS OF CONGRESS AS WELL AS DECISIONS OF THIS U.S. SUPREME COURT INVOLVING AN ISSUE OF INJUNCTIVE RELIEF WHICH BARS SOVEREIGN IMMUNITY?

III.

ARE THE U.S. APPELLATE COURTS VESTED WITH UNLIMITED POWER IN RESTORING AN ACCUSED TO HIS/HER RIGHT TO BE HEARD IN A STATE CIRCUIT OF PROPER JURISDICTION & VENUE?

RESPONDENT PARTIES BY JOINDER

Statement of Parties; Sup.Ct. R. 14.1(b);

For purposes of this action, the below listed parties shall be joined in cause by nature of their actions as well as inactions while performing their duties in their official capacities, and, under color of [state] law, being recognized as the real parties in interest, serving as the instruments to the petitioner's injuries.

Therefore, shall be liable as entities of the State of Tennessee pursuant to TCA § ***29-20-313(a);*** *who are –*

***CAROL L. MCCOY**, Part-II, Chancellor, **ELLEN HOBBS LYLE**, Part-III, Chancellor, **RUSSELL T. PERKINS,** Part-IV, Chancellor; DAVIDSON COUNTY CHANCERY COURT; TWENTIETH JUDICIAL DISTRICT; **JIM PURVIANCE,** Executive Director; **RICHARD MONTGOMERY**; Chair, TENNESSEE BOARD OF PAROLE, 404 James Robertson Parkway; Suite 1300 Nashville, Tennessee.37243-0850.*
Defendant-Respondents

Each respondent's cloak of sovereignty or otherwise lesser immunities shall be waived by Acts of U.S. Congress, 42 USC §1983 as well as State Legislation; Tennessee Constitution, Art. I, § 17.

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OPINION BELOW

The Order of the Appellate Court of the State of Ohio, Sixth Judicial Circuit, on August 23, 2019, which affirmed the Order of the United States District Court for the Middle District of Tennessee, Nashville (Columbia) Division, is attached hereto as Appendix "A" (A-5)). A copy of the Order of the United States DistrctCourt dated 3/6/19 denying the petitioner's civil complaint under ***42 USC § 1983 & 28 USC § 1343(a (3)****, is attached as ["A-4"]*

JURISDICTIONAL STATEMENT

Jurisdiction is conferred upon this court by ***28 USC §1257(a)*** *to review by Writ of Certiorari a final judgment rendered by the highest court of a state in which this case is of such imperative importance as to justify deviation from normal appellate practice and to require immediate determination in this court;* ***See*** ***28 USC §2101(c),*** *from which a decision may be had; Appendix "A" (A-1 & 4)), Petitioner will further submit that,*

- *i.] The date of the Order sought to be reviewed was entered on August 23, 2019,*

*thereafter, its **"corrective"** order entered on August 27, 2019. ["A-6"] and now being submitted under this Court's Rule 11.*

ii.] Inevitably, petitioner was denied the right to proceed in forma pauperis,[A-6].

iii.] Referencing this same order and any further submissions as to suggestions for Rehearing(s), none has been filed by the petitioner.

iv.] To date, no cross-appeals have been filed with respects to this appeal and petition.

*v.] Jurisdiction shall be conferred upon this court via **28 USC §2101(c),** to review on a Writ of Certiorari the judgment and order in question.*

*vi.] Petitioner states that in accordance with the provisions of **28 US §2403(a), (b)** and this Court's Rule 29.4(b) & (c), he has timely served both State and U.S. Attorney and Solicitor Generals where gives rise to State and U.S. Constitutional issues of law.*

CONSTITUTIONAL PROVISIONS

The following provisions of the United States Constitution are involved; Const, Amends, V. VIII. & XIV.The test of said provisions are attached hereto as appendix "E" (1-3).as follows --

AMENDMENTS

V.

> ***No person shall be held to answer for a capital, or otherwise Infamous crime, unless on a presentment or indictment by a grand jury. . .nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb. Nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty, or property, without due process;***
> ***[Emphasis, mine]***

VIII

Excessive bail shall not be required, nor excessive fines be imposed Nor cruel and unusual punishment inflicted.

XIV

All persons born or naturalized in the United States, and Subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall Make or enforce any law which shall abridge the privileges Or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without Due process of law; nor deny to any person within its jurisdiction The equal protection of the laws.

FEDERAL STATUTES & RULES INVOLVED

The following provisions of federal statutes are involved; ***28 USC §1915, 42 USC § 1983 28 USC §1343(a) (3), 18 USC § 242 and F.R.Civ.P. 62(g) (1).*** *The test of said provisions are attached hereto as appendix "E" (4-8).as well as other state statutes and treaties relevant to this petition and made a part hereof.*

STATE CONSTITUTION INVOLVED

The following provisions of Tennessee Constitution are involved; Art. I, §9, ***Art. I, § 17, Art. II, §1 and Art. II, §2 which holds, [E9-12]***

Art. I, § 17

That all courts shall be open, and every man, For an injury done him in his . . . person or

reputation , shall have remedy by due course of law, and right and justice administered without. . . denial or delay. Suits brought against the state in such manner and in such courts as the legislature may by law direct.
[Emphasis, added]

Art.il, §1

The powers of the Government shall be divided Into three distinct departments; the Legislative, Executive, and Judicial.

Art.il, §2

No person or persons belonging to one of these departments shall exercise any of the powers properly belonging to either of the others, except in the cases herein directed or permitted.

Pages

STATEMENT OF THE FACTS

As will be supported by the Petitioner's Appendices "A–E," from the outset the records will show the petitioner being an inmate housed in a Tennessee Correctional Facility, [which is to say, Turney Center Industrial Complex ("T.C.I.X.")], located at Only, Tennessee, at the point of filing his Governmental Tort Liability Action ("GTLA'), with the Davidson County Chancery Court, and thereafter summarily dismissed, because of being statutorily exempt from civil prosecution; See Appendix, hereafter ["A1-6 "], as well as his pauper status ["D1-4"].

Having received no Hearings, Conferences and/or terms for Mediations between the parties, petitioner was denied his right to access the Court of Appeals,["B-9a-b"],& ["C1-8b"].

It is at this point the Petitioner realized he was being deliberately denied his right to appeal a civil matter, consistent with Tennessee's provisions of laws ["C-5 & 6"] ultimately and currently attempting to overcome this deprivation by filing his Title 42 USC § 1983 Complaint with the U.S. District Court for the Middle District of Tennessee, Nashville, [Columbia division], See ["E-5 & 6"] where again his efforts were thwarted by the District Court Judge's Opinion-Memorandum and Order, without any further process, ["A-1 & 4"]. Hence, this appeal now ensues.

AMPLIFIED REASONS FOR GRANTING THE WRIT

The first of reasons as to why a Writ of Certiorari should issue, is because of the U.S. Sixth Circuit's summary conclusion dismissing the petitioner's appeal due to his pauper status, which departs so far from the excepted and usual course of judicial proceedings, as well as to sanction such a departure, by a lower court ["A-5 & 6 "], as to call for an exercise of this court's supervisory powers.

Secondly, whereby a Congressional Act allows this petitioner to pursue "state-entities", or officials for injunctive-relief and the lower U.S. Court of Appeal's decision conflicting with other U.S. Court of Appeals, as well as this U.S, Supreme Court on the same issues of law. Third, where all U.S. Appellate Courts are vested with "unlimited" power in restoring the criminally accused to their right to be heard in [state] courts of proper jurisdiction and venue which have need to be settled by "this supreme-court" requiring immediate determination. ["E-5 & 6"].

JUDICIAL PROCEEDINGS BELOW

History;

Petitioner challenged the conclusion of the Tennessee Board of Parole (hereafter T/BOP) which recommended a five (5) year deferral rendered February 27, 2018 (".B-1")), which, by the way, was his "second" review by the T/BOP-- the first being 2/ 2013.

Thereafter and in the outcome of a full-board decision, based upon the recommendations of its Hearing Officer [Amber Lineberry], this petitioner then sought the review of their decision through the Agency's "Director", defendant PURVIANCE, who thereafter upheld the Board's action ("B-2"). From that point, the petitioner sought an appeal to the Tennessee Chancery Court, which further denied an "appellate review" in the state-courts;["D-1"], now giving rise to this appeal by reason of this procedural flaw, and, passed over in the lower U.S. District Court; Appendix-"A" ["A-2 & 4"].

Nature & Cause:

Clearly, as initiated in the petitioner's [State] GTLA, he seeks to be ***reinstated****, as well as to have his "eligilibility-status restored" based upon material evidence which was omitted at his "[P]anole-[H]earing", that inevitably served no purpose in "absence" of this crucial-material, Appendix, ["B1-7"] that was never activated during the course of his hearing, in order to demonstrate his attempt to improve his character-rehabilitation for purpose of parole; ["B-3"] whom also was "accepted by a civil sponsor." See also Appendix-"B" [B-7]. .Neither was any "other" such criteria displaying petitioner as being a risk-factor, e.g. ["B-4"], introduced at this hearing, i.e. other than relying upon the nature and gravity of his offense, ["B1-2"] which remains to be a judicial-matter, for*

purposes of query as required by both BOP-Policy as well as "statutory-law", See [E-1, 11 & 12"]

Because of this irreparable and tortuous injury,-- physical as well - each of the defendant-respondents inaction have, since 2013, subjected the petitioner to the very hazards and dangers of a "penal-environment" which forces and extends petitioner's ineligilibility for parole-release due to their "encroachment" upon duties belonging to another branch of government, See Appendix-"E,"[11 & 12], in deferring his release without **legal-cause,** rather than rely upon its **"own criteria,"** See appendix, ["B-3 & 4"] with ["E-6"].

Appendices

"A"

"B"

FEDERAL STATUTES AND RULES INVOLVED;

TENNESSEE CONSTITUTION

TENNESSEE CODE ANNOTATED

ARGUMENT
I.

WRIT OF CERTIORARI SHOULD ISSUE WHERE APPELLATE COURT DENIES PETITIONER'S RIGHT TO APPEAL PREMISED UPON HIS PAUPER STATUS

A conflict of interest arises, and, of constitutional proportions when the U.S. Circuits (as here) allows the [U.S.] District Courts to abuse their discretion when relying on clearly erroneous findings of fact, See Appendix-"A"; [5 & 6],as well as applying the wrong legal standards reaching a conclusion---or, make a clear error in judgment, Boulger v. Woods, 2019 [WL-944834; 6CA].

Here, the lower courts have severed petitioner's legal right to appeal and review his civil matter, on both state ["D-2"/"E-4"] and federal levels F.R.Civ.P.3(a) (4), because of -1.] His pauper status as would be consistent with 28USC §1915(4) Gardarising v. Malone, 2011[WL-570803], where in ***"no event"*** *he should have been denied,* ***§1915 (b) (4),*** *due to his inabilities to pay for initial filing fees, and 2.] Being in excess of the number of ["civil"] complaints allowed to be filed, See ["A-1, 4, & 5"].*

3.] The failure to demonstrate the imminent danger of serious "physical-injury" to justify a waiver of prepayment of filing fees, and 4.] The fact that his defendants presumably are cloaked with various immunities.

In retrospect, going back as far as 1892, Congress enacted the in forma pauperis statutes (IFP), now codified at 28 USC §1915, "to ensure that indigent litigants have 'meaningful' access to the federal courts", cf. Bruce v. Samuels, 136 S.Ct. 627 (2015), with Neitkze v.Williams, 490 U.S. 319, 324,109 S.Ct.1827; 104 L.Ed. 2d.338 (1989),

currently reacting to a sharp rise in inmate litigation, Woodford v. Ngo, 548 U.S.81.84, 106 S.Ct.2378; 165 L.Ed.2d.368 (2006)

Thereafter, In 1996 Congress enacted the Prisoner Litigation Reform Act (hereafter, PLRA), which installed a variety of measures designed to single out the bad claims [filed by prisoners] and facilitate consideration of the good; See Coleman v.Tollefsson, 575 U.S.----,----135 S.Ct.1759,1762,191 L.Ed.2d.,5033 (2015) (Quoting) Jones v. Bock, 549 U.S.199, 204; 127 S.Ct. 910, 166 L.Ed.2d.798 (2007) . . . which (then) made no distinction between simultaneous payment and sequential recoupment, Bruce v. Samuels, 136 S.Ct.627, 193 L.Ed. 2d.496 (2016).

Accordingly, with recognition to this legislation involving the ***IFP analysis****, prisoners release account balances* ***would be irrelevant****; See specifically 28 USC §1915(b) (4), See also Appendix-["E-4".]. Secondly, where involves repetitive filing, nothing in section* ***1915's*** *current design support's "treating a person's second or third action – as concluded in the lower court, ["A-2 & 3"] – unlike his first lawsuit", as held under Chief Justice Ginsburg's Opinion in the Bruce Court, supra.*

Therefore, for this cause, this Supreme Court's intervention is required for purposes of issuing a Writ of Certiorari, 28 USC §2101(c), tolerating petitioner's absolute right reviewing his complaint in the U.S. District court, now revealing a constitutional issue of law, both State and U.S. See ["C-8"], ["E-4"].

To further contain prison litigation, the PLRA introduced a 3-strikes provision which bars repetitive prisoner litigation, ***"unless"*** *he can demonstrate imminent danger of being under serious physical injury. In other words and for purposes of section 1915,,, pay up front and in full. . . while at the same stroke of legislation, in 1996*

Congress included in its overhaul of §1915 a safety-valve provision to ensure that the fee-requirement would not bar access to courts, or in fact, a stipulation for a show of serious physical injury. Both provisions were implemented to suffice for the PLRA's purpose, which is to ***"force prisoners to think twice about the case and not just file reflexively".***

However, such is not the case here, rather, and as observed by the court in Neitzke, supra, petitioner's situation is more compatible with. . . "a powerful illustration that a finding of a failure to state a claim does not invariably mean that the claim is without arguable merit" (other cites omitted), thus the petitioner here asserts that this is so, particularly where the ***'history'*** *of his [civil] filings undeniably shows each prior court dismissing his claims just* ***"short"*** *of discussing their merit which has always placed his action in this precarious position, and depriving his access through the various courts. SEE Appendices- ["B & C"], simultaneously "appearing" that he has been deceptive concerning his filings – nonetheless, clearly demonstrated otherwise prior to coming into this U.S. Circuit Court; SEE Appendix-["A-2 & 3"] with ["B-3"].*

Next, and where concerns [state] officials; See Appendix-"E"[14-27]], first, it's long been established in Federal Courts that the Eleventh Amendment does not erect a barrier against suits on those [State] officials under 42 USC §1983 and are not absolutely immune solely by virtue of the "official" nature of their acts; Appendix ["E-20, 22, 25"] with ***Hafer v. Melo****, 112 S.Ct. 502 U.S. 21,115 L.Ed.2d. 301 (E.D.Pa. 1991),*

Still, under Tennessee law, government officials are presumed to be cloaked with sovereign immunity as well as lesser immunity that extends to [judicial] officials being sued in their "official" capacities, however, it may be waived by "legislative action" (as

here); See Tenn. Constitution, Art. I §17, with TCA § 29-20-313(a), which "waives" any [form] claim of sovereign immunity for acts committed by its judicial officers See also Appendix- ["E-13 & 25"] as well as their lesser state-agents and officers.["E-18"].

Therefore, taken in this light, and, to apply U.S.District Court Judge Caldwell's conclusion, ***See Martin v. Patterson,*** *2013 [WL-5574485; USDC, S.D.London, Ky.]; held, that the Plaintiff's §1983 claim must be dismissed for money damages against state-actors – in the federal court - "but", the State Tort Action (as here) may proceed.*

Further, and to this extent, even "this U.S. Sixth Circuit" has previously held, that where involves a [State] Tort, it's more appropriate to have it resolved in a State Circuit Court of proper Jurisdiction and venue. Coleman v. Governor of Michigan, 413 App'x 866, 8712 (6th Cir. 2011).See also Appendix-"E" [23 & 24].

APPENDIX – A
[1-6]

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISIÓN

DANIEL H. JONES, 443638	)	
	)	
Plaintiff	)	
	)	
Vs.	)	NO. 1:18-cv-00087
	)	JUDGE CAMPBELL
CLAUDIA C. BONNYMAN, et.al.	)	
Defendants	)	

PURSUANT TO F.R.CIV.P. 59(e)

MOTION TO ALTER AND/OR AMEND JUDGMENT

*Plaintiff, Daniel H. Jones, pro se, respectfully moves the Court to alter and/or amend its judgment of **1/8/19**, requiring the Plaintiff to remit the sum of $400.00 in order to proceed in forma pauperis; as grounds with authority, the Appellant submits the following*

> *[i] Plaintiff's complaint **[in form]** clearly shows that he admitted having filed more than one complaint as well as to indicate his most recent filing [document [p.1 &2].*
>
> *[ii.] This Court was, and has expressed as much, clear knowledge and prior information having to do with this Plaintiff's filings, leaving **no deception** on his part, however, indicating bias on the Court's behalf, having dismissed a former suit; also indicated in this Appendix [attached hereto]*
>
> *[iii.] This Court, in contempt of a Congressional Act is attempting to deprive the Plaintiff of his Constitutional right to both file and appeal a civil action **SEE** 28 USC §1915(2) (4) with **F.R.Civ.P. 3 & 4.***

A-2

[iv.] *Fourthly, under the* ***PLR id.*** *its requisites aren't reduced to* ***"just"*** *the forbidding of frivolous suits, but also enacted to allow litigants unfettered access to commence new actions when the prior conclusions rest upon any decision (as here) other than the "merits"* ***See Payne v. Matthew****, 633 S.W.2d. 494 (Tenn.1982),* ***Wolfe v. Perry****, 412 F.3d. 707,714 (6th Cir. 2005).*

CONCLUSION

In summary, to reiterate, this Plaintiff has at all time adequately informed the court as to the information required for acceptance of his civil complaint, and therefore, request that its judgment be amended to comply with the federal Rules governing his action; Alternatively, and by right of passage, to be allowed to appeal his matter to the U.S. Court of Appeals for the 6th Circuit: F.R.A.P. 3 &4.

Respectfully submitted,

Daniel H. Jones, #443638, pro se
Turney Center Industrial Complex
1499 R.W.Moore Memorial Hwy.
Only, Tennessee. 37140-4050

CERTIFICATION

This is to certify, the foregoing motion to Alter and/or Amend has this day been mailed postage prepaid to the clerk of the United States District Court for the Middle District, located at, U.S. Courthouse, 801 Broadway, Nashville, Tennessee37202.. On this 25th day of JULY 2019.

Daniel H. Jones, #443638, pro se

C;'File/dhj

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

DANIEL H. JONES **Plaintiff**	)	**Case No. 3:15-0030**
	)	**Judge Todd Campbell**
V.	)	**Magistrate Judge_____**
MARK GWYN, et.al. **Defendants**	)	

Title 42 USC § 1983; Civil Rights Complaint/ Appeal
Type of Pleading
Motion To Reconsider

Pursuant to F.R.Civ.P. 59(e): Motion To Alter Or Amend Judgment:

JUDGE CAMPBELL; with all due respects to your judgment primarily holding my Civil Rights Complaint in abeyance as well as any attempt to appeal until such demands for prepayment of an initial $350.00 have been satisfied, which I don't have and clearly demonstrated, you are directly in contempt of an Act of Congress prohibiting this form of conclusory denial:, 28 USC § 1915(b)(4); See Appendix, hereafter, [Apdx. Doc. 1].

Secondly, under the Prison Litigation Reform Act (PLRA), release account balances are irrelevant to the forma pauperis analysis, See 28 USC § 1915(b)(4) with Gidarisingh v. Malone, 2011 [WL-570803]. **Third**, 42 USC §1983 does not contain [a] statute of limitations, Moore v. Lewis, 2011 [WL-4344433; E.D. Tenn. 2011], as neither the U.S. Constitution nor the Federal statutes enacted by Congress expressly provide a statute of limitations for claims arising under § 1983, rather, defers to state law, e.g., TCA § 28-3-104(a)(3), to determine a statute of limitations, Harris v. United States, 422 F.3d.

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5/8

322, 331 (6th Cir. 2005), even in such actions involving federal parties. See also Wilson v. Garcia, 471 U.S. 261, 2366-69, 105 S.Ct. 1938; 85 L.Ed.2d. 254 (1985).

Even though in this instance federal law determines the accrual of these claims, which began when I, [the Plaintiff then], became aware of the injuries, and through exercise of reasonable diligence, [Apdx. Doc.2], See Wolfe v. Perry, 412 F.3d. 707, 714 (6th Cir. 2005), from that point on [Apdx. Doc.3] "**repeatedly denied,**" and, without consideration for the merits of my complaint , Congressional lenity requires Federal Courts to adopt ["State"] standards governing tolling periods, and in this case, under the applicable Tennessee Savings Statute , which is now TCA § 28-1-105, regarding my new State Tort Action commenced in January 22, 2014 [Governmental Tort Liability Action --- GTLA], also "after" my adverse decision in the United States Supreme Court (hereafter Sup.Ct) November 8, 2013, filed against former Defendant Judge Robert H. Montgomery listing eight (8) other Defendants, including (current) defendants **Gwyn** and **Stone**, this enactment will read - - - -

> **If the action is commenced within the time limited by Rule or Statute,[i.e. Sup.Ct. R.13] of limitations, but the judgment or decree is rendered against the Plaintiff upon any ground "not" concluding his right of action . . . the Plaintiff or his Representatives and privies as the case may be, may from time to time, commence a new action within one (1) year.**
> **[emphasis, mine]**

Judge Campbell, in examining all former records to this on-going complaint [past and present] you'll quickly note, that on Federal review, each conclusion dismissing my Complaint(s) were due to my pauper status, under guise of the Rooker-Feldman Doctrine, whose Court Opinion was not, but, ***must be*** approved by an appropriate decision-maker.

here "Congress," reflecting the purpose for § 1983 review as upheld in this supreme Court in Bd. Of County Comm's of Bryan County Okla v. Brown, 520 U.S. 397, 403; 117 S. Ct. 1382, 1388; 137 L.Ed. 626 (1997).

Therefore, with this in mind, the full meaning and intent of this statute, id., was spelled out by Justice Holmes of the Tennessee Supreme Court in Balsinger v. Gass, 211 Tenn. 343, 379 S,W,2d. 800, 805 [19464], where he said; . . *2) .Under TCA § 28-106, all actions which may be brought by virtue of that statute must be brought within one (1) year "after" the [in]conclusive dismissal of an action brought within the period, id. [Rule 13] of the applicable statute of limitations

In other words, it makes no difference whether the initial inconclusive dismissal in the U.S. Supreme Court [November 8, 2013], "not on the merits" was a voluntary non-suit or dismissal for want of prosecution, as also indicated in some of my [Plaintiff] former attempts, Payne v. Matthews, 633 S.W. 2d. 494 [Tenn.1982]. It is unmisrtakenly clear from the posture of these prior filings the entire proceedings (past and present) has been timely in satisfying this Tennessee Saving Statute. In addition to this, notwithstanding any applicable statute of limitations to the contrary; **See TCA § 28-1-115**, any party filing an action in the Federal Courts that is subsequently dismissed for lack of jurisdiction - §§ **1331 & 1367** – shall have one (1) year from the date of such dismissal to timely file such action in an appropriate State [***Davidson Circuit Court]*** Court, and as made feasible via

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***2) As particularly indicated by appendix [doc. 4 : Plaintiff's Complaint] the new GTLA--- Gwyn, et.al is still pending in the Davison Circuit Court and currently being addressed for a conclusive ruling, or in this instance,this District court's intervention.**

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

DANIEL H. JONES #443638,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**NO. 1:18-cv-00087**
	)	
CLAUDIA C. BONNYMAN, et al.,	)	**JUDGE CAMPBELL**
	)	
Defendants.	)	

ORDER

Plaintiff appeals this Court's Order denying his motion to reconsider the denial of his application to proceed in district court without prepaying fees and costs ("IFP application").[1] (Doc. No. 8.) Because Plaintiff is clearly subject to the Section 1915(g) bar preventing him from prosecuting this case IFP, the Court finds his appeal of that ruling frivolous and **DENIES** leave to proceed IFP on appeal.

Pursuant to Rule 24(a)(5) of the Federal Rules of Appellate Procedure, Plaintiff may nonetheless file, within **30 days** after service of this Order, a motion directly in the Sixth Circuit Court of Appeals for leave to proceed as a pauper on appeal. *Owens v. Keeling*, 461 F.3d 763, 775 (6th Cir. 2006); *Callihan v. Schneider*, 178 F.3d 800, 803 (6th Cir. 1999). The motion should comply with the requirements stated in Rule 24(a)(1), by (A) showing the plaintiff's inability to pay in full the appellate filing fee; (B) claiming an entitlement to redress; and (C) stating the issue the plaintiff intends to present on appeal.

[1] The Court observes that Plaintiff purports to appeal "from the final judgment of an Order dismissing his Civil Rights Complaint," (Doc. No. 8 at 1), but this case has not been dismissed. Plaintiff has simply been denied the privilege of prosecuting the case without prepayment of the filing fee.

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Plaintiff is notified that if he does not file a motion in the Sixth Circuit Court of Appeals within 30 days of receiving notice of this Order and subsequently obtain leave of that court to proceed without prepayment of the appellate filing fee, or if he fails to pay the required appellate filing fee of $505.00 within this same time period, the appeal may be dismissed for want of prosecution. *Callihan*, 178 F.3d at 804.

The Clerk of Court is **DIRECTED** to furnish a copy of this Order to the Sixth Circuit Court of Appeals.

It is so **ORDERED**.

WILLIAM L. CAMPBELL, JR.
UNITED STATES DISTRICT JUDGE