

In The  
**Supreme Court of the United States**

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WILLIAM J. GOLZ,

*Petitioner,*

*v.*

MARCIA L. FUDGE,  
in her official capacity as Secretary of the  
United States Department of Housing  
and Urban Development,

*Respondent.*

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**On Petition for a Writ of Certiorari  
to the United States Court of Appeals  
for the Tenth Circuit**

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**PETITIONER'S SUPPLEMENTAL BRIEF**

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## INTRODUCTION

Petitioner Dr. Golz's<sup>1</sup> May 13, 2021-letter notified the Clerk pursuant to Rule 12.6 (Rule 12.6-letter) that Marcus and Matthew Golz (Petitioner's brothers) had been named as defendants on the Court of Appeals' order but were not appellants and had no interest in the outcome of the petition. On August 15, 2017, the District Court Clerk granted Housing and Urban Development's (HUD's) motion for entry of default as to Petitioner's brothers. 1 R. 7:ECF Nos. 29 and 30.<sup>2</sup> HUD then failed to seek a default judgment (see 4 R. 18:4–5) for nearly two years prior to the District Court's entry of its final order and judgment on April 8, 2019. The Rule 12.6-letter was transmitted with the required certificate of service (COS) (App. B, *infra*, 3a-sb) which a person or persons in the Office of the Clerk (Clerk's staff) docketed in place of the COS for the petition. Tbl. 1, *infra*, Docket Date 06/01/21.

The Rule 12.6-letter and its COS were transmitted with (but were easily distinguishable and separated by a sheet of purple-colored paper from) the petition and its appendix, comprising: the Court of Appeals' order and judgment (App. to Pet. 1a–10a) based upon its *de novo* review of the order and judgment of the District Court (*id.*, 11a–27a), the Court of Appeals' order on the petition for rehearing en banc (*id.*, 28a–29a), and statutory provisions (*id.*, 30a–50a). See *id.*, at (ia); Pet. (vi) (conforming to Rule 14.1(c)). The petition was transmitted with the required COS (App. C, *infra*, 4a-sb) which has not been docketed. Tbl. 1, *infra*, Filed 05/13/21.

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<sup>1</sup> William Golz earned his Ph.D. as a Louisiana State Board of Regents' Fellow and has the professional degrees of M.S. and B.S. (*cum laude*) in civil engineering.

<sup>2</sup> 1 R. 7:ECF Nos. 29 and 30 cites to District Court docket entries 29 and 30 in Vol. 1, p. 7 of the record on appeal (R. or ROA).

Petitioner's appendix (Tbl. 1, *infra*, Filed 05/13/21) was altered by the Clerk's staff's addition of 38 pages consisting of recommendations of the Magistrate Judge (altered appendix). Following publication of the altered appendix (*id.*, at Docket Date 06/01/21), the Clerk's staff withheld from the docket Petitioner's motions to the Clerk (*id.*, at Filed 06/03/21) and to the Court (*id.*, at Filed 06/05/21), which requested the removal of the altered appendix and COS for the Rule 12.6-letter, and their replacement with the proper documents. The Clerk's staff also withheld from the docket Dr. Golz's motion to delay distribution of the petition pending the motion to remove the altered appendix (*id.*, at Filed 06/08/21) and his motion to compel the Clerk to perform his duty (*id.*, at Filed 07/03/21).

TABLE 1. Actions required to correct the docket		Docket	
Filed	Description	Date	Action
05/13/21	COS for Rule 12.6-letter	06/01/21	delete
05/13/21	COS for petition		add
05/13/21	Appendix to petition		add
N/A	Appendix to petition altered by Clerk's staff's addition of 38 pages	06/01/21	delete
06/03/21	Motion to the Clerk to remove the altered appendix		add
06/05/21	Motion to the Court to remove the altered appendix		add
06/07/21	Respondent's waiver of right to respond	06/07/21	N/A
06/08/21	Motion to the Court to delay distribution of the petition pending motion to remove the altered appendix		add
07/03/21	Motion to Court to compel Clerk to perform his duty <sup>3</sup>		add

<sup>3</sup> On June 10, 2021, the Clerk's staff docketed second copies of the COS for the Rule 12.6-letter, the altered appendix, and the petition. See App. G, *infra*, 24a-sb ¶ (i).

## ARGUMENT

The Clerk's staff's addition of 38 pages to Petitioner's appendix and publication of the altered appendix to the docket is an act of deliberate falsification.<sup>4</sup> Dr. Golz's June 3, 2021 motion to the Clerk made the following request:

[I]f you believe that my petition is deficient in its exclusion of the 38 pages you added, that you adhere to the provision of Rule 14.5, that "the Clerk will return it with a letter indicating the deficiency."

App. D, *infra*, 7a-sb.

Had the Clerk's staff returned the petition and appendix filed May 13, 2021 with a letter, Petitioner would have had the opportunity to respond, by, for example, enlarging the petition's questions and statement to include an issue (outlined in part in App. G, H, *infra*, 28–45a-sb, 48–50a-sb) appropriate to the merits brief but which is brought in with the 38 pages of the recommendations of Magistrate Judge Michael Hegarty and exceeds the scope of the petition's questions and statement which focus on the Court of Appeals' *de novo* review of the District Court's order.

The Clerk's staff's withholding of Petitioner's motions filed on June-3, June-5, and June-8, 2021 from the docket is concealment.<sup>5</sup> For proof of delivery, see Apps. D, E, F, *infra*, 8, 15, 21a-sb. Petitioner's July 3, 2021 motion to the Court to compel the Clerk to perform his duty pointed out that the intentional falsification of Petitioner's appendix and concealment of his motions violated Court Rules and may

<sup>4</sup> *Falsify*. "To make false by mutilation, alteration, or addition; to tamper with, as to falsify a record or document." Black's Law Dictionary 542 (5th ed. 1979) (hereinafter Black's).

<sup>5</sup> *Concealment*, "[a] withholding of something which one knows and which one, in duty, is bound to reveal" (Black's 261), also means "[t]o conceal," as "[t]o hide, secrete, or withhold from the knowledge of others." *Ibid.*

violate 18 U.S.C. § 2071 which provides, in pertinent part, that:

- (a) Whoever willfully and unlawfully conceals, removes, mutilates, obliterates, or destroys, or attempts to do so, or, with intent to do so takes and carries away any record, proceeding, map, book, paper, document, or other thing, filed or deposited with any clerk or officer of any court of the United States, or in any public office, or with any judicial or public officer of the United States, shall be fined under this title or imprisoned not more than three years, or both.
- (b) Whoever, having the custody of any such record, proceeding, map, book, document, paper, or other thing, willfully and unlawfully conceals, removes, mutilates, obliterates, falsifies, or destroys the same, shall be fined under this title or imprisoned not more than three years, or both; and shall forfeit his office and be disqualified from holding any office under the United States.

App. H, *infra*, 25a-sb; *United States v. Hitselberger*, 991 F. Supp. 2D 108, 124 (D.D.C. 2014) (“The purpose of § 2071 is to prevent any conduct which deprives the Government of the use of its documents, be it by concealment, destruction, or removal.”) (quoting *United States v. Rosner*, 352 F. Supp. 915, 919 (S.D.N.Y. 1972)) (internal quotation marks and brackets omitted).

The Clerk’s staff’s concealment of Petitioner’s motions filed June 3 through July 3, 2021 deprived the Court of the use of those documents and of the exercise of ““the right and duty of the Supreme Court to correct the irregularities of its officer and compel him to perform his duty.’ *Griffin v. Thompson*, 43 U.S. (2 How.) 244, 257, 11 L.Ed. 253 (1844)[.]” *In re Marin*, 956 F.2d 339, 340 (D.C. Cir. 1992) (internal citation, ellipsis, and brackets omitted).

## CONCLUSION

The Court should direct the Clerk to make the corrections to the docket specified in Table 1; the petition as filed on May 13, 2021 with its appendix (whose numbered pages consist only of 1a–50a) should be distributed along with Petitioner's supplemental brief and appendix to the supplemental brief; and the petition should be granted.

DATED this 23rd day of August, 2021.

Respectfully submitted,



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