

W
Case No. 20-5817 ORIGINAL

Petition for Writ of Certiorari in
United States Supreme Court

Thomas Lewis v Jonathan Decker et al.,

FILED

DEC 16 2020

OFFICE OF THE CLERK
SUPREME COURT OF THE U.S.

Petition for Rehearing

Thomas Lewis 133200

10274 Boyer Rd

Carson City, Mich 48911

Thomas Lewis

12/14/20

4/22/21

ISSUE

covid-19 Outbreak prevented access to
The Court's Controlling precedents
which compels a different outcome regard-
ing The appeals Court using a waived
and unexhausted defense to grant
defendants Summary/Judgment. This
precedent was not provided/Consid-
ered in Certiorari review.

Table of Authorities

Hornel v Helvering, 312 US 552 (1941)

Jones v Bock 549 US 199 (07)

Sims v Apfel 530 US 103 (2000)

Unemployment Comp Comm'n of Alaska v Aragon

329 US 143 (1946)

covid-19 outbreak prevented access to the Court's Controlling precedent which Compels a different outcome regarding the appeals Court using a waived and unexhausted defense to grant the defendant's Summary Judgment. This precedent was not previously considered in Certiorari review.

Covid-19 shut prison law libraries and it was not until Dec 3, 2020 access to the Controlling precedents was given. This intervening National Emergency is the Circumstance giving rise to this Rehearing Petition.

Facts

(1) The Court of Appeals in the Sixth Circuit created a Judicial Waiver that excused defendant's attorney's burden to plead a defense pursuant FRCP 8(c) and their burdens to prove that defense in the Trial Court pursuant FRCP 56(a). A federal Court of appeals has no authority to create an annulment of Rules 8(c) and 56(a) of federal civil procedure enacted by this Court. Nor did the appeals Court have Judicial authority to create annulment of

Rules 12 (g) and (h)(1)(A) which The appeals Court did when during review of The Trial Court's Summary Judgment ruling pursuant 42 USC 1997 (e)(a) exhaustion mandate.

(2) During Summary Judgment pleading The defendants did not raise The defense That Petitioner had defaulted administrative appeal by raising "multiple issues" in his original grievance No. 18-3-267-28C. The lower Court was not presented This issue by defendants.

(3) The Appeal Court over-ruled The Trial Court which granted Summary Judgment on The Conclusion Petitioner did not go to Step III and thereby did not exhaust all remedies as mandated 1997 (e)(a). The appellate found Petitioner "did go to Step 3".

(4) Then The appellate Court introduced The "issue claiming" multiple issues" was raised by Petitioner and granted defendants Summary Judgment on That basis alone.

(5) The appellate Court thereby Created an Judicial exception That relieves and does annul and excuse The defendants burdens To plead and prove non-exhaustion pursuant 1997 (e)(a) Contrary To Rules 8 (c), 56 (a) 12 (g) h (1)(A) Jones V Bock 549 US 199 (07).

Standard of Review

(6) Sims v Apfel, 530 US 103 (2000) Harmel v Helvering 312 US 552 (1941) Unemployment Compensation Comm'n of Alaska v Aragon 329 US 143 (1946). In Sims v Apfel The Court made The following holding That proves The appellate Court has erred by introducing a ~~a~~ unexhausted forfeited defense using it as a basis to grant defendants relief:

Ordinarily/ an appellate Court does not give consideration to issues not raised below. For our procedural Scheme contemplates that parties shall come to issue in The Trial Court vested with authority/ to determine questions of fact. This is essential in order that parties may have opportunity/ to offer evidence they believe relevant to The issues which The Trial Court is alone Competent to decide; it is equally essential in order that litigants may not be surprised on appeal by final decision There of issues upon which they had no opportunity to introduce evidence

(7) Petitioner was prejudiced by The

appellate Court: Petitioner was denied all reasonable and fair opportunity to defend himself in a fact-finding Tribunal and due process protections. Further, The appellate Court effectively switched The burden of proof by cancelling defendant's and putting the burden on Petitioner to come to this Court and plead under this Court's limited review procedures.

(8) In Alaska v Aragon 329 US 143 at 149 is a factually identical case. There The appeals Court introduced a defense that had also been forfeited or waived, by not being raised when it should have been raised. This Court reversed and remanded.

(9) In Hornel v Helvering 312 US 552 There The Court held that exhaustion is at its greatest necessity when the forum is adversarial in nature. And a 1983 Civil Suit is adversarial in The Trial Court. The defendant's failure to raise multiple issues as a defense pursuant Rule 8(c) and 56(a) forfeited or waived that defense and Rules 12g and h (1)(A) barred it from introduction. Period.

(10) The Petition for Writ of Certiorari was decided without the benefit of this Controlling precedents. Issue One and Two in the Petition is requested rehearing based on the precedents presented here.

Petitioner Seeks remand.

Respectfully Submitted

Thomas Lewis

4/22/21

Proof of Service

On 4/26/21 I gave my pleadings to prison personnel using a Expedited Legal mail form as proof of mailing and sent it to Mr Harris Clerk of the Court.

Thomas Lewis

pursuant 28 USC 1746 I swear under penalty of perjury all facts are true and accurate and based on personal knowledge. Thomas Lewis 4/23/21

Certificate Stating Petition for Rehearing is limited to intervening Circumstance of Controlling effect not previously presented. Rule 44

The National Emergency of Covid-19 has closed law libraries and Petitioner did not get access to Controlling precedents until Dec 3 2020, 4 days before the Court denied Certiorari. Dec 7 2020. Petitioner acts in good faith in seeking Rehearing.

4/22/21

Thomas Lewis

Pursuant 28 USC 1746 under penalty of perjury declares the above is True and accurate and Petitioner so swears. Thomas Lewis

4/22/21

Word Count

Petitioner hereby Certifies by manual Count the Total is 749 Words

pursuant 28 USC 1746 perjury oath Sworn above Thomas Lewis

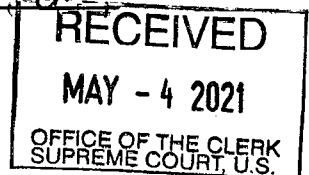
Tom Lewis 133200
1727 Bluewater Highway
Lonia, Mich 48846

4/26/21

No. 20-5817

Thomas Lewis v Jonathan Decker et al

Dear Mr Harris



I did not receive your March 17 2021 letter of Notice until April 22 2021. Please see proof of that Receipt in Exhibit B in The Motion To Alert The Court of Defendants Fraud upon The Court. Also enclosed is:

(1) Petition Rehearing 5 pgs
(2) Certificate stating the intervening Circumstance of The National Emergency of Covid-19 prevented access to The Court's Controlling precedents presented herein and Sworn under 28 USC 1746.

(3) Word Count 749 Words

(4) proof of Service.

(5) Motion alleging Fraud 3 pgs

(6) Exhibits 7 previous mailings That was not interfered with because They Were not Critical mailing like your March 17 2021 or my Dec 15 2020 Petition Rehearing.

(7) Proof of Receipt of Your March 17
2021 Exhibit B. The guard who
delivered it is named Simon and he
refused to give a proper signature.

Please Note: I sign my name on
The Seal flap of The envelope to alert
you it tampered with. Please check.

Thank you for your service to us.

Thomas Lellis

4/22/21

No. 20-5817

Petition for writ of Certiorari
United States Supreme Court

Thomas Lewis v Jonathan Decker et al.

Motion to Alert Court of Fraud
perpetrated on The Court by The
Defendants and Corrections Dept.

(1) Defendants have perpetrated fraud on The Court interfering with The Court's business and attempting to cause a procedural default by not only withholding mail out-going and in-coming, but have also repeatedly opened and removed documents from Petitioner's pleadings and introduced documents to discredit motions in The Trial Court. Petitioner repeatedly motioned The Trial Court and appellate Court to stop The Defendants Sabotage and harassment to no avail. The Courts refusal to stop it has embolden them.

(2) Petitioner mailed his Petition Rehearing 12/15/20 and did not reach The Court until 90 days later on March 12, 2021. Defendants have Direct Mailing Technology which allows them to weigh and meter overweight mailings. Direct Mailing allows them to Post-Mark mail which allows them to simply withhold mailing. And that is how 90 days lapsed before Mr Harris received the Petition Rehearing request.

(3) If The Court would review the (7) Expedited Legal Mail Forms attached, The Court will find Seven routine Mailings and a Comparison with Your EF record will show they arrived on time within expected time period. But Critical mailing like Petition Rehearing takes 90 days to arrive? At no time during the course of this suit was out-going mail an issue until now.

(4) On March 17, 2021 Mr Harris sent a letter of Notice about Rule 44 deficiency which was withheld and not given to Petitioner until April 22, 2021. A month late. Again a Critical mailing is held on to, to cause a default. See Receipt of Service of Mr Harris's letter Exhibit (B).

(5) Two Critical mailings showing up late within a month of each other is not coincidental when other non-critical mailing arrives on Time. Coupled with The Trial Court and appeal Court Complaints by Petitioner, a very obvious pattern of interference and acts of Sabotage is apparent and reasonable To Conclude.

(6) Defendants Withholding Mr. Harris's March 17 letter for a month as Exhibit (B) proves, was meant to Cause default by exceeding Rule 44's 15 day Time limit. Petitioner Submits to allow them to Subvert fair play with machinations like This would be manifestly unjust.

Relief

Petitioner request his Petition Rehearing proceed unhindered by Their foul play.

Respectfully Submitted

4/22/21

Thomas Lewis

pursuant 28 USC 1746 Petitioner Swears upon penalty of perjury The above is True accurate and reliable.

4/22/21

Thomas Lewis

EX A

MICHIGAN DEPARTMENT OF CORRECTIONS

CSJ-318

DISBURSEMENT AUTHORIZATION (EXPEDITED LEGAL MAIL - PRISONER)

REV. 11/15 4835-3318

Please PRINT clearly, illegible and/or incomplete forms will not be processed.

Lock Seg 4 Institution PBFPrisoner Number 133200 Prisoner Name Lewis
Type or Print Clearly☒ Legal Postage ☐ Filing Fee \$ ☐ Certified Mail (Must Be a Court Ordered Requirement)☐ New Case ☐ Case Number Petition Rehearing 205817Pay To PBFMailing Address Clerk of Court US Supreme Court
Washington DC 20543 0001
Rehearing request 12 pages

The Following Section Must Be Completed In Authorizing Staff Member's Presence

Prisoner Signature [Signature] Date & Time Submitted 10:21 12/15/20Received by [Signature] Staff Signature [Signature]
Type or Print Name & Title James R. SmithDate & Time Received by Authorizing Staff 1-15-21 11:11

Authorization Denied

- ☐ Does not meet definition of legal mail or court filing fee as identified in OP 05.03.118
- ☐ Not hand delivered to authorizing staff member ☐ New case or case number not on form
- ☐ Does not include court order for handling as certified mail ☐ Other (explain)
- ☐ Prisoner refused to sign & date in staff member's presence

Denied by _____ Signature _____
Type or Print Name & Title

Section Below to be Completed by Mail Room Staff

Placed in Mail by Michael S. Holt Signature [Signature]
Type or Print Name & TitlePostage Amount \$.80 Date Placed in Outgoing Mail 12/16/20

Only Business Office Staff are to Write in the Section Below

Postage \$.80 Total Obligation \$.80 ☐ Court Filing Fee Denied Due to NSF

Filing Fee \$ _____ Check # _____

Date Copy Sent to Prisoner 12/16/2020Processed by _____ Signature _____
Type or Print Name & TitleDISTRIBUTION: ☐ Prisoner Accounting ☐ Prisoner ☐ Counselor's File ☐ Prisoner

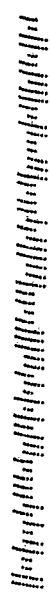
EX B

OFFICE OF THE CLERK
SUPREME COURT OF THE UNITED STATES
WASHINGTON, DC 20543-0001
OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE \$300

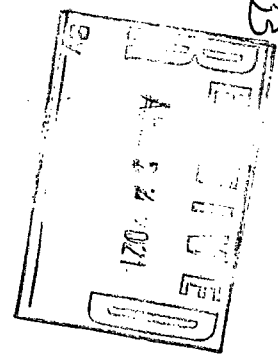
March 17, 2021

Tom Lewis
#133200
Bellamy Creek Correctional Facility
1721 West Bluewater Hwy
Tomball, TX 77058

488455979 R001



1-1493
(2)



FIRST-CLASS MAIL
NEED POSTAGE
041M1120601
US POSTAGE \$000.51
US OFFICIAL MAIL
\$300 Penalty
For Private Use
ZIP 20543
041M1120601

LEGAL MAIL

DATE 4/22/2021
X Thomas Lewis 4/22/21
(Inmate Signature) DATE:
X [Signature] 4/22/21
(Officer Signature) DATE:

EXC

MICHIGAN DEPARTMENT OF CORRECTIONS

CSJ-318

DISBURSEMENT AUTHORIZATION (EXPEDITED LEGAL MAIL - PRISONER)

REV. 11/15 4835-3318

Please PRINT clearly, illegible and/or incomplete forms will not be processed.

Lock Seg 20 Institution DAK

Prisoner Number 133200 Prisoner Name LEWIS
Type or Print Clearly

☒ Legal Postage ☐ Filing Fee \$ ☐ Certified Mail (Must Be a Court Ordered Requirement)

☐ New Case ☐ Case Number Writ of Certiorari 61 pgs Appdx 88

Pay To PBF

Mailing Address Clerk United States Supreme Court
Washington DC 20543

Writ of Certiorari 61 pgs Appendices 88

The Following Section Must Be Completed In Authorizing Staff Member's Presence

Prisoner Signature [Signature] Date & Time Submitted 9/15/20 10:49

Received by [Signature] Staff Signature [Signature]
Type or Print Name & Title S. Becker num

Date & Time Received by Authorizing Staff 9/15/20 1049

Authorization Denied

- ☐ Does not meet definition of legal mail or court filing fee as identified in OP 05.03.118
☐ Not hand delivered to authorizing staff member ☐ New case or case number not on form
☐ Does not include court order for handling as certified mail ☐ Other (explain)
☐ Prisoner refused to sign & date in staff member's presence

Denied by

Type or Print Name & Title _____ Signature _____

Section Below to be Completed by Mail Room Staff

Placed in Mail by Microfilm DIA Signature [Signature]
Type or Print Name & Title

Postage Amount \$9.90 Date Placed in Outgoing Mail 9/15/2020

Only Business Office Staff are to Write in the Section Below

Postage \$ 9.90 Total Obligation \$ 9.90 ☐ Court Filing Fee Denied Due to NSF

Filing Fee \$ _____ Check # _____

Date Copy Sent to Prisoner 9/16/2000

Processed by T. King Signature [Signature]
Type or Print Name & Title

Please PRINT clearly, illegible and/or incomplete forms will not be processed.

Lock 5920 Institution PBF
Prisoner Number 133200 Prisoner Name Lewis
Type or Print Clearly

☒ Legal Postage ☐ Filing Fee \$ ☐ Certified Mail (Must Be a Court Ordered Requirement)

☐ New Case ☐ Case Number

Pay To

PBF

Mailing Address

Clerk U.S Supreme Court
Washington D.C 20543-0001
Certified accounting statement

The Following Section Must Be Completed In Authorizing Staff Member's Presence

Prisoner Signature

Date & Time Submitted

9/18/20 9:30

Received by

Type or Print Name & Title

Staff Signature

Date & Time Received by Authorizing Staff

9/18/20 6:30

Authorization Denied

- ☐ Does not meet definition of legal mail or court filing fee as identified in OP 05.03.118
☐ Not hand delivered to authorizing staff member ☐ New case or case number not on form
☐ Does not include court order for handling as certified mail ☐ Other (explain)
☐ Prisoner refused to sign & date in staff member's presence

Denied by

Type or Print Name & Title

Signature

Section Below to be Completed by Mail Room Staff

Placed in Mail by
Type or Print Name & TitleMcRobert S HOA

Signature

[Signature]

Postage Amount

\$.80

Date Placed in Outgoing Mail

9/21/2020

Only Business Office Staff are to Write in the Section Below

Postage

\$.80

Total

Obligation \$.80☐ Court Filing Fee Denied Due to NSF

Filing Fee

\$

Check #

Date Copy Sent to Prisoner

9/24/2020

Processed by

Type or Print Name & Title

Signature

[Signature]

EXE

MICHIGAN DEPARTMENT OF CORRECTIONS

CSJ-318

DISBURSEMENT AUTHORIZATION (EXPEDITED LEGAL MAIL - PRISONER)

REV. 11/15 4835-3318

Please PRINT clearly, illegible and/or incomplete forms will not be processed.

Lock Sec 20 Institution PBF

Prisoner Number 133200 Prisoner Name LEWIS
Type or Print Clearly

☒ Legal Postage ☐ Filing Fee \$ ☐ Certified Mail (Must Be a Court Ordered Requirement)

☐ New Case ☐ Case Number

Pay To PBF

Mailing Address Clark US Supreme Court
Washington D.C. 20543-0001
Jurisdiction Correction

The Following Section Must Be Completed In Authorizing Staff Member's Presence

Prisoner Signature [Signature] Date & Time Submitted 9/23/20 1:30

Received by [Signature] Type or Print Name & Title Staff Signature

Date & Time Received by Authorizing Staff 9/23/20 1:30

Authorization Denied

- ☐ Does not meet definition of legal mail or court filing fee as identified in OP 05.03.118
☐ Not hand delivered to authorizing staff member ☐ New case or case number not on form
☐ Does not include court order for handling as certified mail ☐ Other (explain)
☐ Prisoner refused to sign & date in staff member's presence

Denied by [Signature] Type or Print Name & Title Signature

Section Below to be Completed by Mail Room Staff

Placed in Mail by [Signature] Type or Print Name & Title Signature

Postage Amount \$ 1.50 Date Placed in Outgoing Mail 9/23/20

Only Business Office Staff are to Write in the Section Below

Postage \$.50 Total Obligation \$ 50 ☐ Court Filing Fee Denied Due to NSF

Filing Fee \$ Check #

Date Copy Sent to Prisoner 9/23/20

Processed by [Signature] Type or Print Name & Title Signature

DISTRIBUTION: ☐ Prisoner Accounting ☐ Prisoner ☐ Counselor's File ☐ Prisoner

EXF

MICHIGAN DEPARTMENT OF CORRECTIONS

CSJ-318

DISBURSEMENT AUTHORIZATION (EXPEDITED LEGAL MAIL - PRISONER)

REV. 11/15 4835-3318

Please PRINT clearly, illegible and/or incomplete forms will not be processed.

Lock Sec 1 Institution DAF DPrisoner Number 133200 Prisoner Name LEWIS
Type or Print Clearly☒ Legal Postage ☐ Filing Fee \$ ☐ Certified Mail (Must Be a Court Ordered Requirement)☐ New Case ☐ Case NumberPay To DAFMailing Address Office of The Clerk
United States Supreme Court Washington D.C
Letter requesting Receipt of all mailings 20543

The Following Section Must Be Completed In Authorizing Staff Member's Presence

Prisoner Signature [Signature] Date & Time Submitted 9/28/20, 12:30Received by [Signature] Staff Signature [Signature]
Type or Print Name & TitleDate & Time Received by Authorizing Staff 9/28/20 1:30

Authorization Denied

- ☐ Does not meet definition of legal mail or court filing fee as identified in OP 05.03.118
- ☐ Not hand delivered to authorizing staff member ☐ New case or case number not on form
- ☐ Does not include court order for handling as certified mail ☐ Other (explain)
- ☐ Prisoner refused to sign & date in staff member's presence

Denied by

Type or Print Name & Title Signature

Section Below to be Completed by Mail Room Staff

Placed in Mail by [Signature] Signature [Signature]
Type or Print Name & TitlePostage Amount \$ 20 Date Placed in Outgoing Mail 11/20/20

Only Business Office Staff are to Write in the Section Below

Postage \$.50 Total Obligation \$.50 ☐ Court Filing Fee Denied Due to NSF

Filing Fee \$ Check #

Date Copy Sent to Prisoner 11-21-20

Processed by

Type or Print Name & Title Signature

DISTRIBUTION: ☐ Prisoner Accounting ☐ Prisoner ☐ Counselor's File ☐ Prisoner

EXG

MICHIGAN DEPARTMENT OF CORRECTIONS

CSJ-318

DISBURSEMENT AUTHORIZATION (EXPEDITED LEGAL MAIL – PRISONER)

REV. 11/15 4835-3318

Please PRINT clearly, illegible and/or incomplete forms will not be processed.

Lock Sec 4 Institution DAF

Prisoner Number 123200 Prisoner Name Lewis
Type or Print Clearly

☒ Legal Postage ☐ Filing Fee \$ ☐ Certified Mail (Must Be a Court Ordered Requirement)

☐ New Case ☐ Case Number 20-5817

Pay To DAF

Mailing Address Clerk of Court

US Supreme Court Washington DC 20543
print of Service

The Following Section Must Be Completed In Authorizing Staff Member's Presence

Prisoner Signature [Signature] Date & Time Submitted 10/30/2011 12:05

Received by [Signature] Staff Signature [Signature]
Type or Print Name & Title

Date & Time Received by Authorizing Staff 10/30/11 12:05

Authorization Denied

- ☐ Does not meet definition of legal mail or court filing fee as identified in OP 05.03.118
☐ Not hand delivered to authorizing staff member ☐ New case or case number not on form
☐ Does not include court order for handling as certified mail ☐ Other (explain)
☐ Prisoner refused to sign & date in staff member's presence

Denied by _____ Signature _____
Type or Print Name & Title

Section Below Must Be Completed by Mail Room Staff

Placed in Mail by [Signature] Signature [Signature]
Type or Print Name & Title

Postage Amount \$ 5.00 Date Placed in Outgoing Mail 11/1/2011

Only Business Office Staff are authorized to use this section.

Postage \$ 5.00 Total Obligation \$ 5.00 ☐ Court Filing Fee Denied Due to NSF

Filing Fee \$ _____ Check # _____

Date Copy Sent to Prisoner 11/1/2011

Processed by [Signature] Signature [Signature]
Type or Print Name & Title

DISTRIBUTION: ☐ Prisoner Accounting ☐ Prisoner ☐ Counselor's File ☐ Prisoner

EX H

MICHIGAN DEPARTMENT OF CORRECTIONS

CSJ-318

DISBURSEMENT AUTHORIZATION (EXPEDITED LEGAL MAIL – PRISONER)

REV. 11/15 4835-3318

Please PRINT clearly, illegible and/or incomplete forms will not be processed.

Lock 12 Institution 1234

Prisoner Number 1234 Prisoner Name 1234
Type or Print Clearly

☐ Legal Postage ☐ Filing Fee \$ 1234 ☐ Certified Mail (Must Be a Court Ordered Requirement)

☐ New Case ☐ Case Number 1234

Pay To 1234

Mailing Address 1234

The Following Section Must Be Completed In Authorizing Staff Member's Presence

Prisoner Signature 1234 Date & Time Submitted 12/31/15

Received by 1234 Staff Signature 1234
Type or Print Name & Title

Date & Time Received by Authorizing Staff 12/31/15

Authorization Denied

- ☐ Does not meet definition of legal mail or court filing fee as identified in OP 05.03.118
☐ Not hand delivered to authorizing staff member ☐ New case or case number not on form
☐ Does not include court order for handling as certified mail ☐ Other (explain)
☐ Prisoner refused to sign & date in staff member's presence

Denied by 1234 Signature 1234
Type or Print Name & Title

Section Below to be Completed by Mail Room Staff

Placed in Mail by 1234 Signature 1234
Type or Print Name & Title

Postage Amount \$ 1234 Date Placed in Outgoing Mail 12/31/15

Only Business Office Staff are to Write in the Section Below

Postage \$ 1234 Total Obligation \$ 1234 ☐ Court Filing Fee Denied Due to NSF

Filing Fee \$ 1234 Check # 1234

Date Copy Sent to Prisoner 12/31/15

Processed by 1234 Signature 1234
Type or Print Name & Title

DISTRIBUTION: ☐ Prisoner Accounting ☐ Prisoner ☐ Counselor's File ☐ Prisoner