

## **Table of Appendices**

(in satisfaction of Supreme Court Rule 34.4)

### **Appendix A**

An order from the U.S. District Court for the Middle District of PA granting—*contra Hagan v. Rogers*—the appellants' motion for fee apportionment.

Despite the "shall mail" language in this order, the petitioner did not receive it until mid-October—and then only because it was attached to plaintiffs-appellees' opposition to an en banc hearing in the Court of Appeals.

### **Appendix B**

The order dismissing the joint appeal in the Third Circuit Court of Appeals.

The petitioner had to seek this document on his own; he only received it on November 2, 2020.

### **Appendix C**

A letter from the clerk of the Third Circuit stating that the court was taking no action on an application for an en banc hearing because the appeal had been dismissed. This letter broke the news of the dismissal to Poplawski—two months after the fact!

The petitioner respectfully submits that perhaps the court could have treated the *pro se* appellants' application for an initial hearing en banc as a petition for a rehearing, given that it was filed after dismissal.

The petitioner directs this Court's attention to the citation of *Hagan* behind a "*but see*" signal. This strongly suggests that the Third Circuit intends to cling to its flawed interpretation of the PLRA.

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 20-2115

Anthony Reid, et al v. Secretary Pennsylvania Dept, et al

(U.S. District Court No.: 1-18-cv-00176)

**ORDER**

Pursuant to Fed. R. App. P. 3(a) and 3rd Cir. LAR 3.3 and Misc. 107.1(a), it is

ORDERED that the above-captioned case is hereby dismissed for failure to timely prosecute insofar as appellant failed to pay the requisite fee as directed. It is

FURTHER ORDERED that a certified copy of this order be issued in lieu of a formal mandate.

For the Court,

s/ Patricia S. Dodszeit  
Clerk



A True Copy:

*Patricia S. Dodszeit*

Patricia S. Dodszeit, Clerk  
Certified Order Issued in Lieu of Mandate

Dated: August 20, 2020  
SLC/cc: Jonathan H. Feinberg, Esq.  
Joseph G. Fulginiti, Esq.  
Barry Gross, Esq.  
Richard A. Poplawski, Esq.  
H. Miguel Robinson,  
Mark D. Taticchi, Esq.  
Mr. Peter J. Welsh,

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ANTHONY REID, <i>et al.</i> ,	:	1:18-cv-176
	:	
Plaintiffs,	:	Hon. John E. Jones III
	:	
v.	:	
	:	
JOHN WETZEL, <i>et al.</i> ,	:	
	:	
Defendants.	:	

**ORDER**

**August 18, 2020**

The Joint Motion for Apportionment of Appellate Fees filed by for Leave class members Richard Poplawski and Miguel Robinson (Doc. 160) is **GRANTED**. The filing fee for the appeal filed in this case shall be apportioned equally between appellants Richard Poplawski and Miguel Robinson.

The Clerk of this Court **SHALL PROVIDE** a copy of this Order to the Third Circuit Court of Appeals. The Clerk **SHALL MAIL** copies of this Order to Richard Poplawski at #KB7354, SCI-Phoenix, Box 244, Collegeville, PA, 19426 and to Miguel Robinson at #CJ8032, SCI-Phoenix, Box 244, Collegeville, PA 19426.

s/ John E. Jones III  
John E. Jones III, Chief Judge  
United States District Court  
Middle District of Pennsylvania

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 20-2115

Reid v. Secretary Pennsylvania Department of Corrections  
(M.D. Pa. No. 1-18-cv-00176)

To: Clerk

- 1) Appellants' "Application for Initial Hearing En Banc of Joint Motion for Apportionment of Appellate Fees; Or Petition for Declaratory Judgement pursuant to 28 U.S.C. § 2201"
- 2) Response by Plaintiffs/Appellees

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No action will be taken on the foregoing application. This appeal was dismissed on August 20, 2020, because the appellants neither prepaid the applicable fees nor were they both granted leave to appeal in forma pauperis. See 3d Cir. L.A.R. 3.3(a), 24.2, 107.1(a). Although the district court granted one appellant (Richard A. Poplawski) leave to appeal in forma pauperis, the other appellant (H. Miguel Robinson) did not file his own IFP motion.

If the appellants want to reopen this appeal, they must file a formal motion seeking that relief. This Court will not act on a motion to reopen, however, unless the appellants have prepaid the fees or the motion is accompanied by an IFP motion from H. Miguel Robinson. Any such motions may argue that a full fee should not be assessed. But see Hagan v. Rogers, 570 F.3d 146, 153–56 (3d Cir. 2009).

For the Court,

s/ Patricia S. Dodszeit  
Clerk

In the  
Supreme Court of the United States

Richard A. Poplawski, *pro se*  
Petitioner,

No. \_\_\_\_\_

v.

Secretary, Pennsylvania  
Department of Corrections,  
Respondent.

On Petition for a Writ of  
Certiorari to the Third  
Circuit Court of Appeals

**Certificate of Service**

I, the petitioner, Richard Andrew Poplawski, declare under penalty of perjury, that the foregoing **PETITION FOR A WRIT OF CERTIORARI** (and attached papers) has been served on the following parties, via Certified U.S. Mail (postage prepaid), on the date indicated, and in satisfaction of Supreme Court Rule 29.3:

**For the Defendants:**

Joseph G. Fulginiti, Esq.  
PADOC Ofc. of Chief Counsel  
1920 Technology Parkway  
Mechanicsburg, PA [REDACTED]  
17050

**USPS Certified Parcel:**

} # 7015 3010 0002 1906 6452

**For the Plaintiffs:**

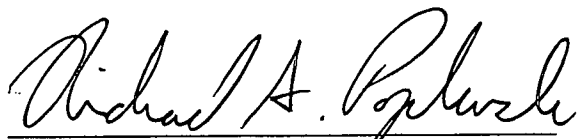
Bret Grote, Esq.  
"Abolitionist" Law Center  
P.O. Box 8654  
Pittsburgh, PA 15221

**USPS Certified Parcel:**

} # 7015 3010 0002 1906 6438

Date

11/6/20

  
Richard A. Poplawski, petitioner, *pro se*