

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 20-2876

United States of America

Plaintiff - Appellee

v.

Brian Edward Reynolds, also known as Brian Reynolds

Defendant - Appellant

Appeal from U.S. District Court for the Southern District of Iowa - Eastern
(3:11-cr-00042-RP-1)

JUDGMENT

Before BENTON, SHEPHERD, and ERICKSON, Circuit Judges.

This court has reviewed the original file of the United States District Court. It is ordered
by the court that the judgment of the district court is summarily affirmed. See Eighth Circuit
Rule 47A(a).

• October 05, 2020

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA,	*	
	*	
Plaintiff,	*	3:11-cr-00042
	*	
v.	*	
	*	
BRIAN EDWARD REYNOLDS,	*	ORDER
	*	
Defendant.	*	
	*	

Before the Court is Defendant Brian Edward Reynolds's pro se motion asking the Court to modify the stipulated discovery and protective order entered on May 20, 2011 (ECF No. 24) and seeking an order for the release of certain documentary evidence. ECF No. 187.

Defendant states in his motion that "[t]he discovery file does/should contain documents of an exculpatory benefit to [him] and are needed to aid in post conviction filings." *Id.* at 1. The stipulated discovery order restricts the use and disclosure of all discovery materials provided for under the order "for any other purpose, including for any other civil or criminal case in federal or state court (other than proceedings arising from this prosecution under 28 U.S.C. § 2255), unless specifically permitted and ordered by the United States District Court for the Southern District of Iowa." ECF No. 24 at 3. Thus, the order permits Defendant access to the requested documents

for habeas corpus proceedings. Defendant has, however, exhausted his habeas remedies.

Defendant filed a motion pursuant to § 2255 in 2014, which this Court denied on the merits.

Reynolds v. United States, No. 4:14-cv-00422 (S.D. Iowa 2018), ECF No. 36. The Eighth Circuit denied Defendant's application for a certificate of appealability and dismissed his appeal. *Id.*, ECF No. 44. Defendant has also twice sought leave of the Eighth Circuit for permission to file a successive habeas petition; his requests have been denied both times. *Id.*, ECF Nos. 50, 54.

The Court therefore determines there is no need for Defendant to access the requested documents as he does not have a pending postconviction motion or permission to file one.

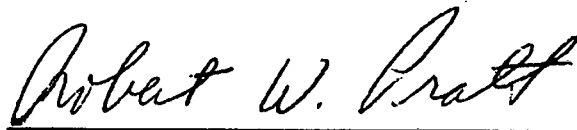
Defendant may request and purchase a copy of the stipulated discovery order and copies of any documents not restricted by the order at a rate of \$0.50 per page. If Defendant wishes to do so, exact payment should be enclosed with the request. Request and payment should be sent to the following address referencing payment for copies for case number 3:11-cr-00042:

Clerk of Court
U.S. District Court
P.O. Box 9344
Des Moines, Iowa 50306-9344

Defendant's motion (ECF No. 187) is DENIED.

IT IS SO ORDERED.

Dated this 31st day of July, 2020.



ROBERT W. PRATT, Judge
U.S. DISTRICT COURT

Orders on Motions

3:11-cr-00042-RP-TJS USA v. Reynolds CASE CLOSED on 08/15/2012

Paper recipients: 1 Mailing Labels

U.S. District Court

Southern District of Iowa

Notice of Electronic Filing

The following transaction was entered on 8/3/2020 at 10:41 AM CDT and filed on 7/31/2020

Case Name: USA v. Reynolds

Case Number: 3:11-cr-00042-RP-TJS

Filer:

Document Number: 188

Docket Text:

ORDER denying [187] Motion for Release of Discovery as to Brian Edward Reynolds (1). Signed by Senior Judge Robert W. Pratt on 7/31/2020. (bp - copy of order sent to Defendant)

3:11-cr-00042-RP-TJS-1 Notice has been electronically mailed to:

Unes Jay Booth ujbooth@windstream.net, ujboothlaw@windstream.net

Clifford R. Cronk usaias.nefdavenport@usdoj.gov, caseview.ecf@usdoj.gov, linda.glenn2@usdoj.gov, cliff.cronk@usdoj.gov

3:11-cr-00042-RP-TJS-1 Notice has been delivered by other means to:

Brian Edward Reynolds #12773-030

OTISVILLE

FEDERAL CORRECTIONAL INSTITUTION

Inmate Mail/Parcels

P.O. BOX 1000

OTISVILLE NY 10963



CLERK, UNITED STATES DISTRICT COURT
131 EAST FOURTH STREET
SUITE 150
DAVENPORT, IOWA 52801
OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE \$300

FA



Hasler

08/05/2020

USPS POSTAGE



FIRST-CLASS MAIL

\$00.50⁰

ZIP 52801
011D10637981

Brian Edward Reynolds #12773-030
OTISVILLE
FEDERAL CORRECTIONAL INSTITUTION
Inmate Mail/Parcels
P.O. BOX 1000
OTISVILLE NY 10963

United States Court of Appeals
For The Eighth Circuit
Thomas F. Eagleton U.S. Courthouse
111 South 10th Street, Room 24.329
St. Louis, Missouri 63102

Michael E. Gans
Clerk of Court

VOICE (314) 244-2400
FAX (314) 244-2780
www.ca8.uscourts.gov

October 05, 2020

Mr. Brian Edward Reynolds
FEDERAL CORRECTIONAL INSTITUTION
12773-030
P.O. Box 1000
Otisville, NY 10963-0000

RE: 20-2876 United States v. Brian Reynolds

Dear Mr. Reynolds:

Expired Dec. 1 2020
Enclosed is a copy of the dispositive order in the referenced appeal. Please note that FRAP 40 of the Federal Rules of Appellate Procedure requires any petition for rehearing to be filed within 14 days after entry of judgment. Counsel-filed petitions must be filed electronically in CM/ECF. Paper copies are not required. This court strictly enforces the 14 day period. **No grace period for mailing is granted** for pro-se-filed petitions. A petition for rehearing or a motion for an extension of time must be filed with the Clerk's office within the 14 day period.

But in a civil case, unless an order shortens or extends the time, the petition may be filed by any party within 45 days after entry of judgment if one of the parties is:
Michael E. Gans
Clerk of Court
Enclosure(s) *(A) The United States*

cc: Mr. Clerk, U.S. District Court, Southern Iowa
Mr. Clifford R. Cronk

(B) A United States Agency
District Court/Agency Case Number(s): 3:11-cr-00042-RP-1

*(C) A United States officer or employee sued in an official capacity; or
(D) a current or former U.S. officer or employee sued in an individual capacity for an act or omission occurring*

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 20-2876

United States of America

Appellee

v.

Brian Edward Reynolds, also known as Brian Reynolds

Appellant

Appeal from U.S. District Court for the Southern District of Iowa - Eastern
(3:11-cr-00042-RP-1)

MANDATE

In accordance with the judgment of 10/05/2020, and pursuant to the provisions of Federal Rule of Appellate Procedure 41(a), the formal mandate is hereby issued in the above-styled matter.

November 23, 2020

Clerk, U.S. Court of Appeals, Eighth Circuit

Caption For Case Number: 20-2876

United States of America

Plaintiff - Appellee

v.

Brian Edward Reynolds, also known as Brian Reynolds

Defendant - Appellant

Addresses For Case Participants: 20-2876

Mr. Brian Edward Reynolds
FEDERAL CORRECTIONAL INSTITUTION
12773-030
P.O. Box 1000
Otisville, NY 10963-0000

Mr. Clerk, U.S. District Court, Southern Iowa
U.S. DISTRICT COURT
Southern District of Iowa
P.O. Box 9344
Des Moines, IA 50306-0000

Mr. Clifford R. Cronk
U.S. ATTORNEY'S OFFICE
310 U.S. Courthouse
131 E. Fourth Street
Davenport, IA 52801-0000

Ms. Heidi Krafka
P.O. Box 393
Bettendorf, IA 52722

RECEIVED

AUG 27 2020

U.S. COURT OF APPEALS
EIGHTH CIRCUIT

IN THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

August 17, 2020

RE: Case 3:11-cr-00042

United States of America,
Plaintiff,

v.

Brian Reynolds,
Defendant.

Appeal from an
Order and for
Writ of Habeas Corpus

Comes now, Brian Reynolds, prose,
and moves the Honorable Appellate Court
to address the matter at bar. Reynolds
mailed a Freedom of Information Request
to his former trial counsel requesting
non-sensitive documents of an exculpatory
nature. Apparently, counsel Diane Helphrey
of the Federal Defenders Office forwarded
(or called Judge Pratt) the request to
Judge Pratt's Court. Nothing found
either in the Federal Rules of Court
nor the Rules governing Freedom of
Information Act allows for this.

The specific items requested do
not depict nudity or personal information
unknown to Reynolds already and
are necessary in his collateral attacks
of his wrongful conviction and
in incarceration. Reynolds asks the
Honorable Court of Appeals to recognize
this attempt to keep the truth
hidden for what it is and issue

order to the Federal Defenders
office to release the items
requested or send them to this
court for initial review and
approval for release to Reynolds.

Reynolds has seen each and
every one of the items in the
past and they were not submitted
as evidence so should not be
protected under a stipulation any
way.

Wherefore, Reynolds asks the
Honorable Court of Appeals to
determine any misconduct in the
handling of the FOIA to begin
with, then issue a determination
to have the items released to
him to aid him in his right
of proper access to the Court
as these documents are beneficial
to Reynolds in his quest to
prove his innocence.

Respectfully Submitted
Bair Reynolds
Aug. 17, 2020

United States Court of Appeals
For the Eighth Circuit
Thomas F. Eagleton Courthouse
111 S. 10th Street
St. Louis, Missouri
63102

Michael E. Gans
Clerk of Court

Voice (314) 244-2400
Fax (314) 244-2780
<http://www.ca8.uscourts.gov>

August 27, 2020

Mr. John Courter, Clerk
U.S. District Court
123 E. Walnut St., Room 300
P. O. Box 9344
Des Moines, IA 50306-9344

Case: United States v. Brian Reynolds
District Court Case Number: 3:11-cr-00042-RP-1

Dear Mr. Courter:

Please find the enclosed notice of appeal in the above referenced matter that was forwarded to this court by Mr. Brian Reynolds. The notice of appeal was received by this office on August 27, 2020.

Mr. Reynolds is advised that sending notices of appeal to the appellate court only results in delay, notices are to be filed in the appropriate district court.

Sincerely

Michael E. Gans
Clerk of Court

bdg

Mr. Brian Reynolds
#12773-030
Federal Correctional Institution
P.O. Box 1000
Otisville, NY 10963

United States Court of Appeals
For The Eighth Circuit
Thomas F. Eagleton U.S. Courthouse
111 South 10th Street, Room 24.329
St. Louis, Missouri 63102

Michael E. Gans
Clerk of Court

VOICE (314) 244-2400
FAX (314) 244-2780
www.ca8.uscourts.gov

September 09, 2020

Mr. Brian Edward Reynolds
FEDERAL CORRECTIONAL INSTITUTION
12773-030
P.O. Box 1000
Otisville, NY 10963-0000

RE: 20-2876 United States v. Brian Reynolds

Dear Mr. Reynolds:

The district court clerk has transmitted a notice of appeal in this matter, and we have docketed it under the caption and case number shown above. Please include the caption and the case number on all correspondence or pleadings submitted to this court.

Counsel in the case must supply the clerk with an Appearance Form. Counsel may download or fill out an Appearance Form on the "Forms" page on our web site at www.ca8.uscourts.gov.

In reviewing the file, we note that the notice of appeal appears to be untimely. Rule 4(b) of the Federal Rules of Appellate Procedure requires that a notice of appeal be filed within 14 days after entry of the judgment or order being appealed. The notice of appeal in this case does not appear to have been filed within that time.

We bring this matter to your attention so that you may remedy the situation and meet the jurisdictional requirements for the appeal. Federal Rule of Appellate Procedure 4(b)(4) permits the filing of a motion for an extension of time to file a notice of appeal. The motion should be filed within 30 days after expiration of the period for filing a timely notice of appeal. The motion must establish excusable neglect or good cause for the late filing. Please note that this motion for leave to file a late notice of appeal must be addressed to the district court. The court of appeals has no authority under the rules to permit a late notice of appeal.

If you agree with our analysis, please file your motion with the district court and provide our office with a copy. If you file such a motion, further proceedings in this court will be stayed until the district court enters an order on the motion. If you disagree with our preliminary analysis of the procedural posture of the case, please provide a written statement explaining the basis for your disagreement and establishing the court's jurisdiction. This statement should be filed within seven days of the date of this letter.

No briefing schedule will be established until this jurisdictional issue is resolved.

Additionally, an order regarding confidentiality is being entered, as this appeal appears to involve (a minor victim, a minor witness, a juvenile offender, or child pornography), copy of which will be forwarded under separate Notice of Docket Activity.

On June 1, 2007, the Eighth Circuit implemented the appellate version of CM/ECF. Electronic filing is now mandatory for attorneys and voluntary for pro se litigants proceeding without an attorney. Information about electronic filing can be found at the court's web site www.ca8.uscourts.gov. In order to become an authorized Eighth Circuit filer, you must register with the PACER Service Center at <https://www.pacer.gov/psco/cgi-bin/cmecf/ea-regform.pl>. Questions about CM/ECF may be addressed to the Clerk's office.

Please note that service by pro se parties is governed by Eighth Circuit Rule 25B. A copy of the rule and additional information is attached to the pro se party's copy of this notice.

Please contact us if you have any questions about the case.

Michael E. Gans
Clerk of Court

CJO

Enclosure(s)

cc: Mr. Clerk, U.S. District Court, Southern Iowa
Mr. Clifford R. Cronk
Ms. Heidi Krafka

District Court/Agency Case Number(s): 3:11-cr-00042-RP-1

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 20-2876

United States of America

Appellee

v.

Brian Edward Reynolds, also known as Brian Reynolds

Appellant

Appeal from U.S. District Court for the Southern District of Iowa - Eastern
(3:11-cr-00042-RP-1)

**ORDER REGARDING FILING IN
CHILD VICTIM AND CHILD WITNESS CASES**

This criminal appeal involves a child victim or witness and is governed by the procedures set out in 18 U.S.C. Section 3509 regarding confidentiality of information and the protection of the child victim's or witness's rights. In particular, 18 U.S.C. Section 3509(d)(2) provides as follows:

Filing under seal - All papers to be filed in court that disclose the name of or other information concerning a child shall be filed under seal without the necessity of obtaining a court order. The person who makes the filing shall submit to the clerk of the court -

(A) the complete paper to be kept under seal;
and

(B) the paper with the portions of it that disclose the name of or any information concerning a child redacted, to be placed in the public record

In order to assure compliance with the statute, the clerk's office will implement the following procedures. Any questions regarding the application of the provisions of this order should be resolved with the clerk of court prior to the filing or submission of a document. Counsel should note that while the clerk's office will review pleadings submitted in the case for compliance with the statute, the responsibility for redacting documents is, by statute, counsel's.

1. **TRANSCRIPTS AND OTHER RECORD MATERIALS.** Counsel should carefully redact the transcript prior to its filing in the district court. Upon filing with this court, the transcript and exhibits in the case will be placed under seal pending further order of the court. If counsel prepare and file an appendix in the appeal which contains documents disclosing the name of or other information concerning a child, they must prepare one redacted copy of the appendix for public use and three complete, unredacted copies for filing under seal. The cover of

the redacted copy must be clearly marked "REDACTED COPY," and the covers of the three complete copies must be clearly marked "UNREDACTED SEALED COPY." At the time the appendix is filed, counsel must provide opposing counsel with an unredacted copy of the appendix.

2. PLEADINGS. Any pleading filed with the court through the CM/ECF system which discloses the child's name or other information concerning the child must be redacted. Upon filing the electronic copy of the redacted document, counsel shall submit one unredacted, complete paper copy to the clerk by mail, commercial carrier or hand delivery.

3. BRIEFS AND ADDENDA. If the party's brief discloses the child's name or other information concerning the child, the brief submitted through the CM/ECF system for review and filing must be redacted. The docket text prepared by counsel at the time of submission must state the brief submitted for review and filing is a REDACTED COPY. The court will review the submitted brief, and if the brief complies with the rules it will be filed and placed on the docket as a public record. The same procedure applies for addenda submitted with the brief. When the brief is filed, counsel will receive notice of the filing and directions to transmit the required paper copies of the brief. In compliance with the provisions of the statute, the ten paper copies of the brief must be complete, unredacted copies. The covers of the paper briefs submitted to the clerk for filing must be clearly marked "UNREDACTED SEALED COPIES." At the time the paper briefs are filed, counsel must provide opposing counsel with an unredacted copy of the appendix.

4. METHOD OF REDACTING. In the redacted copies of the materials filed with the court, counsel must identify the child by initials and must refrain from providing information which would allow the identity of the child to be discovered (e.g., a child should be identified as a "L.M., a female relative," rather than "L.M., the defendant's 14-year-old daughter").

5. PAPERS WHICH DO NOT REQUIRE REDACTION. Papers, including briefs, filed in child victim and child witness cases which do not require redaction because they do not disclose the child's name or other information concerning the child should be submitted through the normal CM/ECF filing and submission procedures as set out in this court's rules.

6. DUTIES UNDER THE STATUTE. Counsel must comply with the provisions of 18 U.S.C. Sec. 3509. The clerk will maintain the confidentiality of all documents subject to the statute.

September 09, 2020

Order Entered under Rule 27A(a):
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 20-2876

United States of America

Appellee

v.

Brian Edward Reynolds, also known as Brian Reynolds

Appellant

Appeal from U.S. District Court for the Southern District of Iowa - Eastern
(3:11-cr-00042-RP-1)

ORDER

The petition for rehearing by the panel is denied.

November 16, 2020

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans