

20-7558

No. _____

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IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
MAR 16 2021
OFFICE OF THE CLERK

Kesha S. Packer — PETITIONER
(Your Name)

vs.

Wisconsin Department of Corrections — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Seventh Circuit

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Kesha Packer

(Your Name)

P.O Box 2031

(Address)

Roswell, GA 30076

(City, State, Zip Code)

414-614-0333

(Phone Number)

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QUESTION(S) PRESENTED

1. Whether the United States Court of Appeals has jurisdiction to hear the plaintiff's appeal?
2. Whether the plaintiff notified the Courts she was appealing the order issued by the United States District Court Eastern District of Wisconsin?
3. Whether the plaintiff notified the Courts in a timely manner that she was appealing the order issued by the United States District Court Eastern District of Wisconsin?
4. Whether the plaintiff encountered several incidents out of her control that fall under the law as excusable neglect that should have been reviewed by the United States Court of Appeals and/or United States District Court Eastern District of Wisconsin?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

Kesha S. Packer v. Wisconsin Department of Corrections, No. 18-CV-2024-JPS, U.S. District Court for the Eastern District of Wisconsin. Judgment entered Oct. 1, 2020.

Kesha S. Packer v. Wisconsin Department of Corrections, No. 20-2584, U.S. States Court of Appeals for the Seventh Circuit. Judgment entered Nov. 10, 2020.

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APPENDIX A	Decision of the United States Court of Appeals
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APPENDIX E	Email Correspondence from Chief Clerk of the United States Court of Appeals
APPENDIX F	Notice of Case Opening

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

See Prizevoits v. Indiana Bell Tel. Co., 1996 U.S
5

See Smith v. Barry, 502 U.S. 244
5

STATUES AND RULES

Fed. R. App. P. 4. Fed. R. App. P. 3(c),

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was November 10, 2020.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Bill of Rights

The First Amendment - Freedom of Assembly and Petition

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

The Fourteenth Amendment, Section 1

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.

Constitution of the United States

Article III, Section 2

The Judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

STATEMENT OF THE CASE

The Plaintiff filed an entire appellate brief because of the final decision and order of the U.S. District Court for the Eastern District of Wisconsin entered on June 16, 2020 by the Honorable Judge J.P. Stadtmueller. The United States Court of Appeals had jurisdiction to decide this case pursuant to 42 U.S.C. § 2000.

Plaintiff received notice of the final order on 6/16/20 at 6:26 p.m. via email from Attorney Jeff Olson, who was the plaintiff's counsel at the time of the order. Subsequently, after receiving the order, the plaintiff was no longer represented by counsel and immediately became a pro se litigant. Plaintiff as a pro se litigant, completed Affidavit Accompanying Motion for Permission to Appeal in Forma Pauperis on 7/10/20, and then completed an Appellant Brief and Certificate of Service on 7/11/20. The Affidavit Accompanying Motion for Permission to Appeal in Forma Pauperis, Appellant Brief, and Certificate of Service were all filed and served upon the United States Court of Appeals for the Seventh Circuit via United States Mail on 7/11/20, with USPS estimated delivery date of 7/15/20. In addition, a copy of the Appellant Brief was served upon counsel for the Appellee via United States Mail on 7/11/20, with USPS estimated delivery date of 7/15/20, which was timely and within the required 30 days.

On August 17, 2020, the plaintiff received an envelope from the Seventh Circuit Court which contained the plaintiff's appellate brief, Affidavit Accompanying Motion for Permission to Appeal in Forma Pauperis, and letter from the court. The appeal and Affidavit Accompanying Motion for Permission to Appeal in Forma Pauperis was stamped "U.S.C.A- 7th Circuit RECEIVED Jul 30 2020 1" and the letter addressed to plaintiff from the court was dated July 30, 2020. The letter indicated that "documents were being returned to plaintiff unfiled" and that "plaintiff does not have a current appeal." Plaintiff called the Seventh Circuit Court immediately, and subsequently spoke to Jim Richmond, Court Clerk, and informed him that the appeal was returned and inquired as to why. Mr. Richmond provided plaintiff with his email address and requested appeal and correspondence be scanned to him. The plaintiff did so immediately, and scanned Mr. Richmond proof of the appeal mailed on 7/11/20. Mr. Richmond eventually told plaintiff that he would have to go with the office date received stamp and then referred plaintiff back to the Eastern District Circuit Court. On August 18, 2020, the plaintiff completed and filed *Motion for Extension of Time and Reopening the Time to File an Appeal* with the US Eastern District Court and served upon the court via United States Mail on 8/18/20, with USPS estimated delivery date of 8/21/20. Plaintiff filed the motion as directed even though the actual appellant brief was filed timely in accordance Federal Law. On August 20, 2020, the plaintiff was informed by Mr. Richmond that the Eastern District Court received *Motion for Extension of Time and Reopening the Time to File an Appeal*, and subsequently the plaintiff received correspondence from the court indicating the same and citing that the Motion was filed 8/21/20. The filing date for the one-page Notice of Appeal document is 8/21/20; however, the actual appellant brief which cites the information that is on the NOA was completed and filed by the plaintiff on July 11, 2020, as explained above.

On November 10, 2020, the United States Court of Appeals for the Seventh Circuit ordered that the plaintiff appeal is DISMISSED for lack of jurisdiction, citing that "The law requires that a notice of appeal in a civil case be filed in the district court within 30 days of the entry of the

judgment or order appealed and, in this case, judgment was entered on June 16, 2020, and the notice of appeal was filed on August 20, 2020, 35 days late."

CONCLUSION

The petition for a writ of certiorari should be granted.

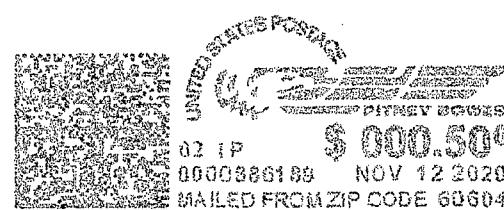
Respectfully submitted,

Kesha Packer

Date: 3/15/21

OFFICE OF THE CLERK
United States Court of Appeals
For the Seventh Circuit
219 S. DEARBORN STREET
CHICAGO, ILLINOIS 60604-1874

OFFICIAL BUSINESS



20-2584

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