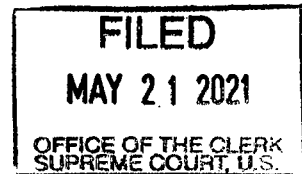


20-8153 ORIGINAL
No. _____



IN THE
SUPREME COURT OF THE UNITED STATES

SAMANTHA J JACKSON

— PETITIONER

(Your Name)

vs.

AT&T RETIREMENT SAVINGS PLAN, et

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

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

PETITION FOR WRIT OF CERTIORARI

SAMANTHA JACKSON

(Your Name)

221 TENNESSEE STREET

(Address)

LAFAYETTE, LA 70501

(City, State, Zip Code)

337 380-3750

(Phone Number)

QUESTION(S) PRESENTED

Question 1: Did the Appellate Court erroneously calculate the filing deadline for the Notice of Appeal as January 21, 2021 instead of January 25, 2021 when it neglected to add the additional 3 day allowance for the Pro Se filer to file?

Question 2: Did the Appellate Court err in their decision when they failed to consider that the notice of judgement was received after January 21, 2021? Should excusable neglect have been allowed under this circumstance?

Question 3: Did the Appellate court erroneously state that the date the notice of appeal was docketed was the date it was filed when they composing the Order?

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:

AT&T RETIREMENT SAVINGS PLAN; AT&T PENSION BENEFIT PLAN MOBILITY PROGRAM;
AT&T INCORPORATED; AT&T SERVICES, INCORPORATED; FIDELITY WORKPLACE
SERVICES, L. L. C.; AT&T MOBILITY SERVICES, L. L. C.

RELATED CASES

Jackson v. AT&T Retirement Savings Plan, et al, No.19-cv-116, U.S. District Court Western District of Louisiana. Judgement entered on March 25, 2020.

Jackson v. AT&T Retirement Savings Plan, et al, No. 20-30255, U.S. Court of Appeals Fifth Circuit. No judgement has been entered at this time.

Jackson v. AT&T Retirement Savings Plan, et al, No. 21-30052, U.S. Court of Appeals Fifth Circuit. Judgement entered on March 31, 2021.

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APPENDIX B	DECISION OF WESTERN DISTRICT OF LOUISIANA LAFAYETTE DIVISION
APPENDIX C	ORDER OF U. S. COURT OF APPEALS DENYING RECONSIDERATION
APPENDIX D	N/A
APPENDIX E	N/A
APPENDIX F	N/A

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Silivanch v.Celebrity Cruises, Inc., 333 F.3d 355, 366-67 (2d Cir. 2003).	5

STATUTES AND RULES

Federal Rules of Civil Procedure 6(b)(1)(B)
Federal Rules of Civil Procedure 6(d)
Federal Rules of Appellate Procedure 26(d)
Rule 5(b)(2)(C), (D) (F)
Rule 6(a)
Rules 59(e) of Federal Rules of Civil Procedure
Rule 60(b) of Federal Rules of Civil Procedure

OTHER

N/A

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 ^C_____ 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 March 31, 2021.

☐ 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: April 13, 2021, 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

Federal Rules of Civil Procedure 6(b)(1)(B) and Federal Rules of Appellate Procedure 26(d) states, "When an act may or must be done within a specified time, the court may, for good cause, extend the time: on motion made after the time has expired if the party failed to act because of excusable neglect."

Federal Rules of Civil Procedure 6(d) states, "When a party may or must act within a specified time after being served and service is made under Rule 5(b)(2)(C) (mail), (D) (leaving with the clerk), or (F) (other means consented to), 3 days are added after the period would otherwise expire under Rule 6(a)."

Rules 59(e) of Federal Rules of Civil Procedure states, "A motion to alter or amend a judgment must be filed no later than 28 days after the entry of the judgment."

60(b) of the Federal Rules of Civil Procedure states, "On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b)."

STATEMENT OF THE CASE

Plaintiff brought suit under ERISA on January 29, 2019. On March 25, 2020, the district court entered a final judgment dismissing Plaintiff ' s claims with prejudice. The Plaintiff filed a timely notice of appeal on April 9, 2020 (appeal number 20-30255). The Appellant filed a Motion to Supplement the Record on Appeal on October 23, 2020, which was denied. The Plaintiff filed a Rule 60(b) and 62.1(a) Motion with the District Court on November 15, 2020, which was denied on December 22, 2020. The Pro Se filer receives all correspondences through the mail. The notice of the judgement rendered by the District Court on December 22, 2020 was not received until January 23, 2021. The Notice of Appeal was filed on January 25, 2021. The Appellate Court denied it for want of jurisdiction due to untimely filing on March 31, 2021. The Appellant filed a Motion for Consideration on April 12, 2021, which was denied on April 13, 2021. The Court of Appeals erroneously stated that the notice of appeal was filed on January 27, 2021 instead of January 25, 2021.

The delay in the delivery of the mail was due to the exigent circumstances created by the COVID-19 pandemic as well as mailing delays of the Christmas holidays. The Plaintiff encountered the same issue regarding a letter mailed from the insurance company on December 12, 2020 that was not received until January 19, 2021.

Pursuant to Federal Rules of Civil Procedure 6(d) and Federal Rules of Appellate Procedure 26(d), when a party may or must act within a specified time after being served, and the paper is not served electronically on the party or delivered to the party on the date stated in the proof of service, 3 days are added after the period would otherwise expire. Rule 5(b)(2) (C) (mail).

Based on the foregoing statutes, the Appellant's Notice of Appeal was timely filed. The Appellant cited Federal Rules of Civil Procedure 6(b)(1)(B) for excusable neglect due to receiving the judgement after January 21, 2021 and submitted proof of the delay in the receipt of the letter from the insurance company in her Motion for Reconsideration.

REASONS FOR GRANTING THE PETITION

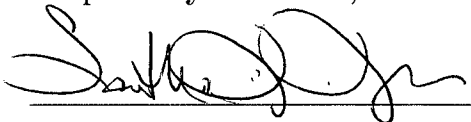
The petition should be granted because the Petitioner has adhered to the rules and regulations set forth in the Federal Rules of Civil and Appellate Procedures and has timely filed the Notice of Appeal in accordance with those rules. In addition to that, the petition should be granted because the Petitioner was unaware that the district court had made a ruling in the case until the latter part of January, 2021, when she received the judgement in the mail. The Second Circuit has focused on the third factor as critical in the analysis. See *Silivanch v. Celebrity Cruises, Inc.*, 333 F.3d 355, 366-67 (2d Cir. 2003).

The information the Petitioner is seeking to appeal is pertinent to the pending Appeal in the United States Court of Appeals and the Petitioners intent was to combine the new appeal with the pending appeal which will identify an erroneous decision previously made by the district court. The district court dismissed AT&T as a defendant due to lack of personal jurisdiction in that case when it did not fully understand the evidence (declarations and other filings) that had been filed with the case. Their decision to dismiss AT&T in the Petitioner's case was based on decision made in the prior case against AT&T. The petition should be granted so that justice can be obtained to the fullest extent of the law.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "S. J. G.", written over a horizontal line.

May 20, 2021

Date: _____