No: 20-8157

IN THE SUPREME COURT OF THE UNITED STATES

BLAKE SANDLAIN
Petitioner

VS.

R. GUY COLE JR.
United States Six Circuit
Court of Appeals
Respondent

SUPPLEMENT PETITION FOR WRIT OF MANDAMUS

Blake Sandlain #12250000
(FCI) McDowell
P.O. Box 1009
Welch, W.V. 24801

QUESTION PRESENTED

Whether a Petition for Mandamus Shall issue to Require the Court of appeals for the Sit Circuit to decide on Petitioner (COA), where the District Court Just Ruled on the (COA) after letting the (COA) Sit on its docket for ten months, and only Ruled on it once Petitioner filed a Mandamus with the Court of appeals.

STATEMENT OF THE CASE

ON February 15, 2021 petitioner seeked a mandamus from the Court of appeals, Requesting that it ordered the eastern district of michigan to Render a decision on a (COA) that been siting on the Court docket for ten months. The Court of appeals denied to issue the mandamus, See ORDER Appendix (A). Thereafter, the district Court Ruled to deny the (COA) after ten months had elapsed, See, ORDER Appendix (B).

REASONS FOR GRANTING PETITION

Mandamus is a drastic Remedy that should be invoked only in extraordinary Cases where there is a clear and indisputable Right to the Relief Sought, United States v young, 424 F.3d 499 (6th cir 2005). And a writ of mandamus may be available if the district Court Refuses to adjudicate the Case pending before it, Will v Calvert fires Co. 437 U.S. 655 (1978).

Petitioner had shown a clear and indisputable Right to issue the (COA) that is siting on their docket, as well as a indisputable Right for them to issue a mandamus for the eastern district Court to act on the (COA), but yet the Court of appeals acted on neither. The QUESTION NOW Remains, Shall this Supreme Court issue a mandamus for the Court of appeals to Render a decision on the pend-

ing (COA), as the district court has already denied the (COA) after ten months has already elapsed.

PURSUANT to 28 U.S.C. 2253(c)(2); Fed R. App. P. 22(b). The (COA) shall issue, as petitioner made a substantial showing of his fifth amendment due process to be heard on his 2255 was violated. When the district court made his 2255 inadequate OR ineffective, by ordering the government to Respond to his 2255, and without providing petitioner notice and opportunity to respond to the government Response to the 2255, denied the 2255 solely on the government Response alone. See, IN Re: 28 U.S.C. 2255, Congress Meant to provide a chance to be heard, not a Right to prevail on any particular argument, Cleaver V Maye, 773 F.3d 230 (10th cir 2014), United States V Surratt, 797 F.3d 240 (4th cir 2015). Similarly, in Boumediene V Bush, 553 U.S. 723 (2008), the court concentrated on the opportunity that the substitute offered -- not the outcome, id at 779, asking whether the sum total of procedural protections sufficed, id at 783.

Reasonable Jurists pursuant to Miller-EL V Cockrell, 537 U.S. (2003); Slack V McDaniel, 529 U.S. 473 (2000) could find it debatable the petition should have been resolved in a different manner, by providing petitioner a fifth amendment Constitutional Protected due process to be heard on defending the government Response to the 28 U.S.C. 2255. As the (2004) amendment to Fed R. Civ. P. 5(e) Requires a Response, once the government is ordered to Respond to a 2255. As well as the Supreme Court Ruling of United States V Hayman, 342 U.S. 205 (1952), United States V Antoin Deandre McDonald, 1 Fed Appx 198 (4th cir 2001), Requires the district court to allow a petitioner to Respond to the government Respond to a 28 U.S.C. 2255.

IN Concluding, Reasonable Jurist Could find it debatable when petitioner filed a 60(b)(4) Void Judgment Motion for the district court to correct the fundamental void Judgment it Created. By depriving Petitioner due process to Respond to the government Response to the 2255, Resonable Jurist could find it debatable that the district court abused its discretion when it denied the 60(b)(4)

MOTION; SEE, NORTHRIDGE CHURCH V CHARTER TWP. OF PLYMOUTH, 647 F.3d 606 (6th CIR 2011)(CONCLUDING THAT A DISTRICT COURT ABUSES ITS DISCRETION IN DENYING A 60(b)(4) MOTION, WHEN IT ACTED IN A MANNER INCONSISTENT WITH DUE PROCESS OF LAW). ALSO SEE, IN RE: EDWARDS 962 F.2d 641, 644 (7th CIR 1992)(SAME); UNITED STATES AIDS FUNDS INC. V ESPINOSA, 559 U.S. 206 (2018)(SAME), AND THE (COA) SHALL BE GRANTED ON THE 60(b)(4) MOTION TO REOPEN PETITIONER 2255 TO PROVIDE HIM DUE PROCESS TO BE HEARD.

LIST OF PARTIES

[V] ALL PARTIES APPEAR IN CAPTION OF THE CASE ON THE COVER PAGE

RELATED CASES

CRIMINAL NO: 14-CR-20283 (WESTERN DIST. MICHIGAN).

CIVIL NO: 2:15-CV-12845-GAD (WESTERN DIST. MICHIGAN).

WRIT OF HABEAS CORPUS NO: 1:20-CV-00358 (FOURTH CIRCUIT).

APPEAL NO: 20-1697 (6th CIR COURT OF APPEALS).

TABLE OF AUTHORITIES

Cases:

OPINIONS BELOW

Opinions attached Appendix (A) (Court of appeals).
Opinions attached Appendix (B) (District Court).

STATUTES

28 U.S.C. 2255

RULES

Fed R. Civ P. (2004 Amendment to 5(c)

Constitution

Fifth Amendment

JURISDICTION

Pursuant to 28 U.S.C. 1651(a) Jurisdiction is Vested with this Court.

CONCLUSION

The Petitioner Request that a mandamus issue, to Require the 5th circuit to Render a Decision on Whether to Grant or Deny a (COA) within (30) days.

Respectfully Submitted
Blake Sandstrom

Date: May 20, 2021

No. 21-1294

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

In re: BLAKE JOSEPH SANDLAIN,

Petitioner.

ORDER

Upon sua sponte review, the clerk notes that the petitioner seeks relief in mandamus *against* the United States Court of Appeals for the Sixth Circuit for an alleged delay in determining whether a certificate of appealability should issue in Case No. 20-1697. Although this court has not issued a ruling in 20-1697, Federal Rule of Appellate Procedure 22(b)(1) requires that the district court first issue a ruling on whether a certificate of appealability should issue. The record reflects that the matter remains pending before the district court.

As Case No. 21-1294 is not properly before this court, the case is ADMINISTRATIVELY CLOSED as improvidently opened.

ENTERED PURSUANT TO RULE 45(a)
RULES OF THE SIXTH CIRCUIT

Deborah S. Hunt, Clerk

APPENDIX (A)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

BLAKE JOSEPH SANDLAIN,

Defendant.

Case No. 14-cr-20283

U.S. DISTRICT COURT JUDGE
GERSHWIN A. DRAIN

ORDER DENYING CERTIFICATE OF APPEALABILITY

Defendant Blake Sandlain entered a plea of guilty to possession of a firearm by a felon in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2), and possession with intent to distribute 100 grams of heroin, in violation of 21 U..S.C. § 841(a)(1) and (b)(1)(B). Defendant has filed numerous post-conviction motions challenging his conviction and sentence, including two 28 U.S.C. § 2255 Motions to Vacate, Set Aside or Correct Sentence. On June 22, 2020, this Court entered an Order resolving six motions filed by Defendant. ECF No. 157.

Specifically, the Court denied Defendant's Motion for Leave to seek sentencing and plea transcripts at government expense because his request relied on a frivolous claim in support of a successive § 2255 petition and he had not sought permission to file a successive petition in the Sixth Circuit Court of

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Appeals. The Court also denied Defendant leave to file a Rule 60 Motion because he was likewise not entitled to such relief. Finally, the Court denied Defendant's remaining motions because he had not sought permission before filing the motions. Defendant is a prolific filer in this Court and has been enjoined from filing any further motions without seeking leave of the Court. ECF Nos. 118, 157. This decision has been affirmed on appeal. *United States v. Blake Sandlain*, No. 19-2100 (6th Cir. Apr. 27, 2020).

Defendant has filed a Notice of Appeal of this Court's June 22, 2020 Order. The Court will deny a certificate of appealability to Defendant. In order to obtain a certificate of appealability, Defendant must make a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). To demonstrate this denial, the applicant is required to show that reasonable jurists could debate whether, or agree that, the petition should have been resolved in a different manner, or that the issues presented were adequate to deserve encouragement to proceed further. *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000). When a district court denies a habeas petition on procedural grounds without reaching the prisoner's underlying constitutional claims, a certificate of appealability should issue, and an appeal of the district court's order may be taken, if the petitioner shows that jurists of reason would find it debatable whether the petitioner states a

APPENDIX (B)

valid claim of the denial of a constitutional right, and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling. *Id.*

The Court declines to issue a certificate of appealability because "jurists of reason" would not "find it debatable whether" Defendant has made a substantial showing of the denial of a constitutional right or that this Court's procedural ruling was incorrect.

Accordingly, for the reasons articulated above, a Certificate of Appealability is DENIED.

SO ORDERED.

Dated: May 4, 2021

/s/Gershwin A. Drain
GERSHWIN A. DRAIN
United States District Judge

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on May 4, 2021, by electronic and/or ordinary mail.
/s/ Teresa McGovern
Case Manager

APPENDIX (B)