

LESLIE SMITH (026133)
 M.C.S.P.
 PO BOX 409090 (B20-B-2042)
 TONE, (A. 95640)
 U.S.C.A. # 2:16-CV-00543-KJN
 U.S.C.A. # 19-15663

UNITED STATES SUPREME COURT

LESLIE GORDON SMITH APPELLANT V. TEHAMA COUNTY SHERIFFS DEPT. AND, C. GIBSON, JR. APPELLEE	CASE # MOTION TO FILE PETITION OUT-OF-TIME
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THIS IS A PETITION TO FILE A MOTION, OUT-OF-TIME. BASED ON THE

DELAYS ATTRIBUTED TO THE COVID-19 EPIDEMIC WHICH RESULTED IN THE
 CLOSURE OF ALL EDUCATION ACTIVITIES, INCLUDING THE LAW LIBRARY ON THIS
 FACILITY FROM ABOUT, FEB. 2020, HERE AT MULE CREEK STATE PRISON.

WITH THE CLOSURE OF THE LAW LIBRARY ALL ACCESS IS ONLY THROUGH THE
 MAIL, TO A DIFFERENT YARD AND LOCATION. THIS WORK IS SUPPORTED BY
 THE ENCLOSED DOCUMENTS REFERRING TO THE LAW LIBRARY ACCESS, AND
 REQUEST AND CLOSURE. IN THE HOPE THAT THIS PETITION WILL RISE TO

THE LEVEL REQUIRED BY THE COURT TO CHARGE INTERVENTION, UNDER U.S.
 SUPREME COURT, RULE 10, TO CORRECT A MISAPPEARANCE OF JUSTICE. THE
 VIOLATION OF MY U.S. CONSTITUTIONAL RIGHTS, THE 6TH AMEND, TO HAVE
 COMPULSORY PROCESS FOR DETERMINING WITNESSES IN HIS FAVOR, THE 7TH

AMEND, "RIGHTS IN CIVIL CASES," RIGHT TO A TRIAL BY JURY SHALL BE
 PRESERVED, THE 14TH AMEND, "DUE PROCESS OF LAW AND EQUAL PROTECTION
 OF THE LAW," AND RULES OF COURT, FED. R. OF CIV. P., RULE 60 (a) NEW

EVIDENCE, AND RULE 38 (b) DEMAND FOR TRIAL. ALSO INCLUDED THE
 MAILBOX RULE BEING REVERSED BY THE COURT.

U.S. SUPREME COURT, MOTION TO FILE PETITION, OUT-OF-TIME
I'M A PRO-SE PETITIONER CONFINED IN THE CALIFORNIA DEPARTMENT OF
CORRECTION AND REHABILITATION (C.D.C.R.) AT MULE CREEK STATE PRISON,
(M.C.S.P.). I HAVE NO LEGAL TRAINING, NO ACCESS TO A COMPUTER WITH A
PROGRAM TO ASSIST IN FILING CASES, OR PARALEGAL ASSISTANCE FOR
RESEARCHING THE CASE. I HAVE CONTINUALLY BEEN DENIED APPOINTMENT OF
COUNSEL, WHICH DENIES THE SAME REPRESENTATION THAT THE DEFENDANTS
ENJOY, ACCESS TO WITNESSES AND SWORN AFFIDAVITS OR DECLARATIONS, THAT
THE DEFENDANTS' ATTORNEY HAS DEMONSTRATED ON NUMEROUS OCCASIONS.
I CANNOT COMPLY WITH UNKNOWN RULES, WHICH ARE THE GROUNDS THAT
THE DEFENDANTS' ATTORNEY HAS BEEN ABLE TO EXPLOIT TO THEIR AD-
VANTAGE. THE COURTS HAVE IGNORED THE MAILBOX RULE, REGARDING LEGAL
MAIL FROM THE COURT, RECEIVED BY THE INSTITUTION MAILROOM, BUT NOT
RECEIVED BY THE INMATE, RESULTING IN THE U.S. COURT OF APPEAL (9TH CIR.)
DENYING THE NOTICE OF APPEAL, BASED ON LACK OF JURISDICTION, CLAIMING
THE NOTICE WAS FILED UNTIMELY. THE DENIAL OF THE MAILBOX RULE IS OF
NATIONAL IMPORTANCE, AND INVOLVES APPROX. 2 MILLION INMATES
AND THEIR FAMILIES AND FRIENDS THAT SUPPORT THEM FROM OUTSIDE
PRISON WALLS.

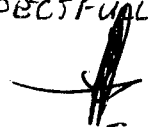
WHEN THE COURTS OR ATTORNEYS MAIL LEGAL DOCUMENTS TO AN INMATE,
THEY ARE RECEIVED BY THE INSTITUTION MAILROOM, ALL CONTROL IS
RELINQUISHED AND ACCEPTED BY THE INSTITUTION MAILROOM. THE
RECIPIENT MAY NOT RECEIVE THE DOCUMENTS OR HAVE KNOWLEDGE OF
THE DOCUMENTS. I HAVE EXPERIENCED THIS, WITH THE ORDER ISSUED
BY THE, U.S.D.C., #2:16-cv-00545-KJM, ON 8-29-2018 (DOC. 63 OF THE
COURT DOCKET). THE COURT MUST RECOGNIZE, THAT ANY LEGAL DOCUMENTS
MAILED TO AN INMATE NOT REPRESENTED BY COUNSEL IS NOT RECEIVED

U.S. SUPREME COURT, MOTION TO FILE PETITION, OUT-OF-TIME
 UNTIL THE LEGAL MAIL IS SIGNED BY THE ADDRESSEE, AS RECEIVED. THESE
 ISSUES EXTEND BEYOND MY CASE, AND APPLY TO BOTH, CRIMINAL AND CIVIL
 CASES. THEY INVOLVE PAST CASES THAT WERE NOT CHALLENGED, OR
 FUTURE CASES INVOLVING THE MAILBOX RULE, THAT THE COURTS WILL
 CONTINUE TO IGNORE, IF THE CHALLENGE IS UNSUCCESSFUL WITH THE
 COURT. THIS WRIT IS ALSO SUPPORTED BY THE U.S. CONSTITUTION, RULES
 OF THE COURT AND CASE LAW, THAT WOULD BENEFIT AN INMATE'S RIGHTS.
 EVEN THOUGH THE INMATE IS UNAWARE OF THOSE RIGHTS, IS A VIOLATION
 OF THE 14TH AMEND., "EQUAL PROTECTION OF THE LAW". IT IS IMPOSSIBLE
 FOR AN UNTRAINED INMATE TO POSSESS THE KNOWLEDGE TO ADEQUATELY
 PRESENT A CASE THAT CAN RAISE TO THE LEVELS REQUIRED BY THE
 COURT UNLESS THE COURT INTERVINES ON ITS OWN AUTHORITY.

THE ACTIONS THAT I SEEK ARE; THE OVERTURN OF THE SUMMARY
 JUDGMENT ORDER GRANTED TO THE DEFENDANTS BY THE U.S.D.C.;
 THE ABILITY TO CONTACT BOTH OF MY WITNESSES, CONFINED OR PAROLED
 IN THE CDCR, AND PRESENT THEM BEFORE THE COURT AT A JURY TRIAL.
 THESE ARE THE ACTIONS THAT WOULD NOT HAVE OCCURRED WITH APPOINTED
 COUNSEL.

I SWEAR UNDER PENALTY OF PERJURY, THAT THE STATEMENT
 PRESENTED TO THE COURT ARE TRUE AND CORRECT, TO THE BEST OF MY
 KNOWLEDGE. EXCUSED ON THIS DATE, MAY 9, 2021.

RESPECTFULLY SUBMITTED



 LESLIE SMITH

INCLUDED ARE COPIES OF SUPPORTING DOCUMENT FOR LATE FILING, 3 PAGES

STATE OF CALIFORNIA
INMATE/PAROLEE REQUEST FOR INTERVIEW, ITEM OR SERVICE
CDCR 22 (10/09)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

SECTION A: INMATE/PAROLEE REQUEST

NAME (Print): (LAST NAME)	(FIRST NAME)	CDC NUMBER:	SIGNATURE:
SMITH	L	G26133	 7/20/2020
HOUSING/BED NUMBER:	ASSIGNMENT:	HOURS FROM	TO
E19-A 204-2	VOC. BUILD. MAINT.	0715	1345
		TOPIC (I.E. MAIL, CONDITION OF CONFINEMENT/PAROLE, ETC.):	
		LAD LIB. LEGAL COPIES	

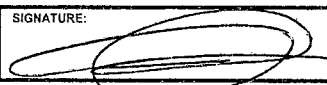
CLEARLY STATE THE SERVICE OR ITEM REQUESTED OR REASON FOR INTERVIEW:

TO: B YARD LAW LIBRARY

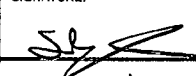
HOW DO I GET LEGAL MAIL TO THE B YARD LAW LIBRARY, TO BE COPIED, WITHOUT SENDING IT THRU THE REGULAR MAIL WHEN THE OFFICERS REFUSE TO SIGN AND SEAL ENVELOPES TO THE LAW LIBRARY?

METHOD OF DELIVERY (CHECK APPROPRIATE BOX) **NO RECEIPT WILL BE PROVIDED IF REQUEST IS MAILED **

- ☐ SENT THROUGH MAIL: ADDRESSED TO: _____ DATE MAILED: ____/____/____
- ☐ DELIVERED TO STAFF (STAFF TO COMPLETE BOX BELOW AND GIVE GOLDENROD COPY TO INMATE/PAROLEE):

RECEIVED BY: PRINT STAFF NAME:	DATE:	SIGNATURE:	FORWARDED TO ANOTHER STAFF?
C/O JINKERSON 77717	07/20/2020		(CIRCLE ONE) YES NO
IF FORWARDED - TO WHOM:	DATE DELIVERED/MAILED:	METHOD OF DELIVERY:	
		(CIRCLE ONE) IN PERSON BY US MAIL	

SECTION B: STAFF RESPONSE

RESPONDING STAFF NAME:	DATE:	SIGNATURE:	DATE RETURNED:
Staples	07/31/2020		07/31/2020

Here is a manila envelope to seal your documents in. You can send it to E Facility/Library. I will receive it, process it, and send it back through the mail in a sealed envelope. I've enclosed the copy sent.

~~SECTION C: REQUEST FOR SUPERVISOR REVIEW~~

PROVIDE REASON WHY YOU DISAGREE WITH STAFF RESPONSE AND FORWARD TO RESPONDENT'S SUPERVISOR IN PERSON OR BY US MAIL. KEEP FINAL CANARY COPY.

RETURNED TO MS. GYLES WITH LEGAL DOCUMENTS ENCLOSED. DID NOT SEND LEGAL DOCUMENTS, STAFF WOULD NOT ALLOW THE DOCUMENT ENVELOPE TO BE SEALED WHILE WITHIN THE INSTITUTION MAIL SYSTEM, EVENTHOUGH THE NUMBER OF PEOPLE HANDLING THE UNSEALED LEGAL DOCUMENTS IS UNKNOWN AND SUBJECT TO UNAUTHORIZED INSPECTION.

SIGNATURE:	DATE SUBMITTED:

SECTION D: SUPERVISOR'S REVIEW

RECEIVED BY SUPERVISOR (NAME):	DATE:	SIGNATURE:	DATE RETURNED:

SUBMITTED WITH WRIT & CERTIFICATE
PAGE 2 OF 3

SUR.DOC. 10F3

USSC 4 OF 199

STATE OF CALIFORNIA
INMATE/PAROLEE REQUEST FOR INTERVIEW, ITEM OR SERVICE
CDCR 22 (10/09)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

SECTION A: INMATE/PAROLEE REQUEST

NAME (Print): (LAST NAME) JMMH (FIRST NAME) L.		CDC NUMBER: 626133	SIGNATURE:
HOUSING/BED NUMBER: E19-A 204-2	ASSIGNMENT: VOC BUILD. MAINT.	HOURS FROM 0715 TO 1345	TOPIC (I.E. MAIL, CONDITION OF CONFINEMENT/PAROLE, ETC.): LAW LIBRARY

CLEARLY STATE THE SERVICE OR ITEM REQUESTED OR REASON FOR INTERVIEW:

I'm REQUESTING LAW LIBRARY ACCESS TO RESEARCH TWO COURT RULES:
FEDERAL RULES OF APPELLATE PROCEDURES, RULE 41 (COPY)
FEDERAL RULES OF CIVIL PROCEDURE, RULE 41 (COPY)

METHOD OF DELIVERY (CHECK APPROPRIATE BOX) **NO RECEIPT WILL BE PROVIDED IF REQUEST IS MAILED **

☐ SENT THROUGH MAIL: ADDRESSED TO: _____ DATE MAILED: ____/____/____☒ DELIVERED TO STAFF (STAFF TO COMPLETE BOX BELOW AND GIVE GOLDENROD COPY TO INMATE/PAROLEE):

RECEIVED BY: PRINT STAFF NAME: A. Weddles	DATE: 4-14-20	SIGNATURE:	FORWARDED TO ANOTHER STAFF? (CIRCLE ONE) YES <input checked="" type="radio"/> NO <input type="radio"/>
IF FORWARDED - TO WHOM: Law Library E-yard	DATE DELIVERED/MAILED: 4-14-20	METHOD OF DELIVERY: (CIRCLE ONE) IN PERSON <input type="radio"/> BY US MAIL <input checked="" type="radio"/>	

SECTION B: STAFF RESPONSE

RESPONDING STAFF NAME: J. Curran	DATE: 4-16-20	SIGNATURE:	DATE RETURNED: 4-16-20
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You will need to fill out the included paging form per the provided instructions and then return it back in the provided Manila envelope to B-Education.

SECTION C: REQUEST FOR SUPERVISOR REVIEW

PROVIDE REASON WHY YOU DISAGREE WITH STAFF RESPONSE AND FORWARD TO RESPONDENT'S SUPERVISOR IN PERSON OR BY US MAIL. KEEP FINAL CANARY COPY.

NOTE: RETURNED TO B FACILITY EDUCATION OFFICE WITH LIBRARY PAGING REQUEST FORM FOR REQUESTED INFORMATION. 4-17-2020

SIGNATURE: _____	DATE SUBMITTED: _____
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SECTION D: SUPERVISOR'S REVIEW

RECEIVED BY SUPERVISOR (NAME): _____	DATE: _____	SIGNATURE: _____	DATE RETURNED: _____
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SUBMITTED WITH WRIT OF CERTIORARI
PAGE 1 of 3

SUP. DEC. 2013

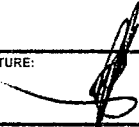
USSC

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STATE OF CALIFORNIA
INMATE/PAROLEE REQUEST FOR INTERVIEW, ITEM OR SERVICE
CDCR 22 (10/09)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

SECTION A: INMATE/PAROLEE REQUEST


NAME (Print): (LAST NAME) SMITH	(FIRST NAME) L	CDC NUMBER: 26133	SIGNATURE: 
HOUSING/BED NUMBER: E19-A 204-2	ASSIGNMENT: DOC. BUILD. MAINT.	HOURS FROM _____ TO _____	TOPIC (I.E. MAIL, CONDITION OF CONFINEMENT/PAROLE, ETC.): LEGAL DOCUMENTS COPIES

CLEARLY STATE THE SERVICE OR ITEM REQUESTED OR REASON FOR INTERVIEW:

MS. GYLES: IS IT POSSIBLE TO PLACE MY LEGAL DOCUMENTS IN THE RETURN BOOK BOX IN FRONT OF THE E LAW LIBRARY TO HAVE THEM COPIED FOR THE COURTS. I CANNOT SEAL THE ENVELOPE FOR MAIL THAT REMAINS WITHIN THE INSTITUTION.

METHOD OF DELIVERY (CHECK APPROPRIATE BOX) **NO RECEIPT WILL BE PROVIDED IF REQUEST IS MAILED **

☐ SENT THROUGH MAIL: ADDRESSED TO: **MS. GYLES, E-LAW LIBRARY SUPERVISOR** DATE MAILED: **8/21/2020**
☐ DELIVERED TO STAFF (STAFF TO COMPLETE BOX BELOW AND GIVE GOLDENROD COPY TO INMATE/PAROLEE):

RECEIVED BY: PRINT STAFF NAME: S. Gyles	DATE: 08/27/20	SIGNATURE: 	FORWARDED TO ANOTHER STAFF? (CIRCLE ONE) YES <input type="radio"/> NO <input checked="" type="radio"/>
IF FORWARDED - TO WHOM: S. Gyles	DATE DELIVERED/MAILED: 8	METHOD OF DELIVERY: (CIRCLE ONE) IN PERSON <input type="radio"/> BY US MAIL <input type="radio"/>	

SECTION B: STAFF RESPONSE

RESPONDING STAFF NAME: S. Gyles	DATE: 08/27/20	SIGNATURE: 	DATE RETURNED: 08/28/20
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The book is not designed to be used for documents. They can be damaged by falling books and or rain. There are plans to open in early September pending Warden approval.

SECTION C: REQUEST FOR SUPERVISOR REVIEW

PROVIDE REASON WHY YOU DISAGREE WITH STAFF RESPONSE AND FORWARD TO RESPONDENT'S SUPERVISOR IN PERSON OR BY US MAIL. KEEP FINAL CANARY COPY.

SIGNATURE:	DATE SUBMITTED:
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SECTION D: SUPERVISOR'S REVIEW

RECEIVED BY SUPERVISOR (NAME):	DATE:	SIGNATURE:	DATE RETURNED:
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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

OCT 22 2019

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

LESLIE GORDON SMITH,

Plaintiff-Appellant,

v.

TEHAMA COUNTY SHERIFF'S
DEPARTMENT; C. GIBSON, Warden,

Defendants-Appellees.

No. 19-15063

D.C. No. 2:16-cv-00545-KJN
Eastern District of California,
Sacramento

ORDER

Before: SILVERMAN, W. FLETCHER, and RAWLINSON, Circuit Judges.

Appellees' motion for leave to file a supplemental declaration in support of their response to the court's February 13, 2019 order to show cause (Docket Entry No. 7) is granted. Appellant's motion to file a response to appellees' declaration (Docket No. 8) is granted. The declaration and response have been filed.

A review of the record and the parties' responses to the February 13, 2019 order to show cause demonstrates that this court lacks jurisdiction over this appeal. The notice of appeal, served on January 7, 2019 and filed on January 9, 2019, was not filed or delivered to prison officials within 30 days after the district court's August 29, 2018 order denying appellant's post-judgment tolling motions. *See* 28 U.S.C. § 2107(a); Fed. R. App. P. 4(a)(4); *United States v. Sadler*, 480 F.3d 932, 937 (9th Cir. 2007) (requirement of timely notice of appeal is jurisdictional); *see*

also Hollywood v. City of Santa Maria, 886 F.2d 1228, 1231 (9th Cir. 1989) (no separate judgment required for order denying post-judgment motion; time to appeal begins to run from entry of order denying post-judgment motion). The district court's December 12, 2018 post-judgment order directing the district court Clerk to re-serve the August 29, 2018 order and denying appellant's resubmitted motion for appointment of counsel is not appealable. *See Am. Ironworks & Erectors, Inc. v. N. Am. Const. Corp.*, 248 F.3d 892, 898 (9th Cir. 2001) (ministerial post-judgment orders not final and appealable). Consequently, this appeal is dismissed for lack of jurisdiction.

DISMISSED.

**Additional material
from this filing is
available in the
Clerk's Office.**