

No: 21-7850

IN THE
SUPREME COURT OF THE UNITED STATES

NAWAZ AHMED – PETITIONER

Vs.

TIM SHOOP, WARDEN, RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO
COURT OF APPEALS FOR THE SIXTH CIRCUIT

REPLY BRIEF

NAWAZ AHMED,

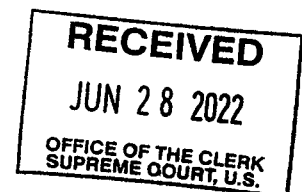
404511,

Pro Se, Petitioner,

Chillicothe Correctional Institute,

P.O.Box 5500

Chillicothe, OHIO 45601.



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REPLY BRIEF

1. Petitioner pro se inmate, respectfully request the Supreme court to issue the writ of certiorari to review and find that “appellate jurisdiction” existed based upon the timely filed on 06/03/21, “**Amended Notice of Appeal**” (Ecf.196, PageID #111194-11195) and timely docketed on 06/15/21, in the appeal case 20-4302, before the July 30,2021 Order, Ahmed v. Shoop, 2021 U.S. App. LEXIS 22755 (6th Cir., July 30, 2021).

There's no penalty for filing a premature notice of appeal. *See Fed. R. App. P. 4(a)(2)*. “The effect of a timely Rule 59 motion on a previously filed notice of appeal is that “the appeal simply self-destructs.” Griggs v. Provident Consumer Discount Co., 459 U.S. 56, 61, 74 L. Ed. 2d 225, 103 S. Ct. 400 (1982). Under the final judgment rule, “a party must ordinarily raise all claims of error in a single appeal following final judgment on the merits.” Flanagan v. United States, 465 U.S. 259, 263, 104 S. Ct. 1051, 79 L. Ed. 2d 288 (1984) (quoting Firestone Tire & Rubber Co. v. Risjord, 449 U.S. 368, 373, 101 S. Ct. 669, 66 L. Ed. 2d 571 (1981)).

The **single appeal rule** is not violated when a party appeals the final judgment in the case, which **encompasses all of the interlocutory orders that preceded it**, and separately appeals an appealable post-decision order. *See Fed. R. App. P. 4(a)(4)(B)(ii)*. Fed. R. App. P. 4(a)(4) lists those situations in which a premature notice of appeal “self destructs.” In Cape May Greene, Inc. v. Warren, 698 F.2d 179, 185 (3d Cir. 1983),

1.1. BIO failed to correctly state that this case has no bearing upon the state judgment of conviction and sentence and absolutely no bearing upon the “habeas corpus Judgment”

(Ecf.156,194) entered in case 2:07-cv-658. So BIO failed to limit only to “directly relevant cases” and the “statement of case” included by 6th Cir. July 30,21 Order.

1.2. BIO is dishonest and violated Prof.Cond.R. 3.3(c) (prohibiting a lawyer from making a false statement to a tribunal) and Prof.Cond.R. 8.4(c) (prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation). Falsely accusing “serial abuse” for filing required cert petition is dishonest, fraud, deceit, making false statement to a tribual, misrepresentation of Darr v. Burford, 339 U.S. 200,214(1950) Holding at (d) (our denial of certiorari carry no weight in a subsequent federal habeas corpus proceeding, we think a petition for certiorari should nevertheless be made before an application may be filed in another federal court by a state prisoner.). As if these fools have always won in Supreme court. In re Mills, 135 U.S. 263;

2. BIO knowing but dishonestly avoided stating record correctly,the factual and key legal arguments that Ahmed timely filed “Amended Notice of Appeal” (Ecf.196) in appeal case 20-4302 before the 6th Cir. July 30,2021 Order, “erroneously denying appellate jurisdiction”.

Warden’s counsel did not appear or file any pleadings in case 20-4153 and case 20-4302 but has received all notices from the Clerk and court orders and copies of all filings via the ECF system.

2.1. .BIO despite warden’s counsel receiving a letter dated June 15,2021 from Clerk/BJE and despite a Letter from Ahmed saying the same, and despite Joint Appendix, at “Appendix B-2” partial case docket and relevant portion of the 6/15/21 letter from Clerk,BIO has intentionally made a dishonest omission of not mentioning the “**Amended Notice of appeal**” (Ecf.196) at PageId# 11194-11195.

2.2. BIO intentionally failed to state the correct facts from the district court case 2:07-cv-658 and 6th Cir. Case 20-4302 records. “All pro se Motions and Objections were authorized by 18 USCS 3599 (e), and authorized filing by the district judge by service upon the judge, contrary to

the erroneous belief of magistrate. 18 USCS 3599 (e), "upon motion of defendant" and (ECF.158, 170) and Others.

2.3. Contrary to BIO, the magistrate judge was never referred any pre-judgment Motion (Ecf.107,110,132-1) and similarly there is no post-judgment referral Order under 28 USCS 636(b)(3) in record. The post-judgment pro se Motions and Objections (Ecf.158,162, 169, 170, 177) were not referred to magistrate judge by a specific post-judgment referral **except one** handwritten pro se Motion, attached to (ECF.170 Objections) asking that magistrate judge may not be allowed to strike any pro se Motions and Objections contrary to statute and for lack any authority and power in post-judgment period when he is not granted any referral under 28 USCS 636(b)(3). The Objections (Ecf.170) as obvious an Objections/Appeal to dist. Judge, as obvious from the text of (Ecf.171) and from the text of magistrate purported DECISION (Ecf.173) when magistrate has no authority to file any DECISION on post-judgment motion, in the habeas case. 18 USCS 3599 (e) "upon Motion of defendant".

3. Because initial Notice of Appeal (Ecf.175) was not taken from any appealable Order, thus was legal nullity. As evident from case 20-4302 case docket entry by Clerk/PJE made on 6/15/2021 and Joint Appendix "B-2"), relevant portion of case docket entry and relevant portion of letter from Clerk/Senior Case Manger stating that "Amended Notice of Appeal" had been filed in case 20-4302 on 6/15/21. The "**Amended Notice of Appeal**" is required filing under Fed. Rule of App. P. 4(a)(4)(B)(ii) provides that "[a] party intending to challenge an order disposing of Rule 59 motions, "must file an **amended notice of appeal**—in compliance with Rule 3(c)— "designate the judgment, order, or part thereof being appealed." Fed. R. App. P. 3(c)(1)(B). Ostergren v. Frick, 856 Fed. Appx. 562(6th Cir.,2021).

4. See Leonhard v. United States, 633 F.2d 599, 610-11 (2d Cir. 1980) (notice of appeal from a district court **order that was non-final** did not divest the jurisdiction of the district court). Fed. R. App. P. 4(a)(1)(A). Because district court failed to make any “final appealable Order” involving pro se post-judgement Motions, Objections, there was no order to appeal within 30 days. Wherefore, all **pending pro se post-judgement Motions and Objections/Appeals to district judge**, not ruled upon by the district court before the dismissal of Rule 59 (e) Motion on May 07,2021, are “*considered implicitly denied*” and could only be adjudicated in the court of appeals after the dismissal of the habeas case on May 07,2021, by filing an “**Amended Notice of Appeal**”. Which Petitioner did (Ecf.196).

5. A premature notice of appeal from a non-final order may ripen into a valid notice of appeal if a final judgment has been entered by the time the appeal is heard and the appellee suffers no prejudice. See Festa v. Local 3, International Brotherhood of Electrical Workers, 905 F.2d 35, 36-37 (2d Cir. 1990); However, the appellate jurisdiction existed per 28 U.S.C. § 1291 that (*determination of a motion need not always be expressed but may be implied by an entry of an order inconsistent with granting the relief sought*”, Or entry of final judgment [Ecf.194] constitutes an implicit denial of pending motions”. 28 U.S.C. § 1291.

6. A party may perfect an appeal after it is filed and before it is heard [by filing Amended Notice of Appeal after final judgment]. See In re Chateaugay Corp., 922 F.2d 86, 91 (2d Cir. 1990) (noting that a "subsequent entry of a final judgment . . . is sufficient to validate a premature notice of appeal if the opposing party is not prejudiced by the decision");

CONCLUSION

Petitioner request the honorable supreme court to grant the petition for Certiorari and writ issue for sixth Circuit to vacate its orders and appoint appeal counsels to proceed further.

Respectfully Submitted

A handwritten signature in black ink, appearing to be 'Nawaz Ahmed', written over a horizontal line.

(NAWAZ AHMED)

A404-511, CCI,

P.O.Box5500

Chillicothe, OH 45601

Dated: June 21, 2022.