

No. 21-8186

IN THE
SUPREME COURT OF THE UNITED STATES

DOUGLAS JACKSON - PETITIONER

IN RE: DOUGLAS JACKSON

AN EXTRAORDINARY WRIT
ON PETITION FOR ~~WRIT OF SUPERVISORY CONTROL~~ TO

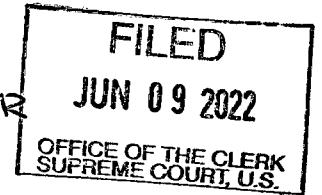
UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT
"MANDAMUS"
PETITION FOR WRIT OF ~~SUPERVISORY CONTROL~~

DOUGLAS CORNELL JACKSON

IONIA CORRECTIONAL FACILITY

1576 W. BLUEWATER HIGHWAY

IONIA, MICHIGAN 48846



QUESTIONS PRESENTED

I. WHETHER THE UNITED STATES DISTRICT COURT CLERK
WAS CONSTITUTIONALLY AUTHORIZED TO REFUSE TO
FILE A PRO SE LITIGANTS PETITION FOR HABEAS CORPUS.

PETITIONER- APPELLANT ANSWERS, "NO."

LIST OF PARTIES

ALL PARTIES APPEAR IN THE CAPTION OF THE CASE ON
THE COVER PAGE.

RELATED CASES

IN RE: DOUGLAS CORNELL JACKSON, U.S. COA No. 21-1249,
DOUGLAS JACKSON v. NOAH HOOD, U.S. COA No. 21-2631.,
DOUGLAS JACKSON v. LES PARISH, No. 2:15-cv-11622 (E.D. MICH.)
PEOPLE v. DOUGLAS CORNELL JACKSON, No. 09-003770-01-FC (WAYNE
(CIV. CIR. CT.).

STATEMENT OF JURISDICTION

PETITIONER SEEKS REVIEW OF THE SEPTEMBER 28, 2021,
ORDER OF THE UNITED STATES COURT OF APPEALS FOR THE
SIXTH CIRCUIT, IN RE: DOUGLAS JACKSON, No. 21-1110.
THIS COURT HAS JURISDICTION PURSUANT TO 28 USC § 1651(b).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

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. (1ST AMEND.)

NO PERSON SHALL ... BE DEPRIVED OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW (5TH AMEND.)

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. (14TH AMEND.)

THE PRIVILEGE OF THE WRIT OF HABEAS CORPUS SHALL NOT BE SUSPENDED, UNLESS WHEN IN CASES OF REBELLION OR INVASION THE PUBLIC SAFETY MAY REQUIRE IT. (ART. 1, SEC. 9.)

28 USC § 2254(b)(1)(B)(i)(ii)

FEDERAL RULE OF CIVIL PROCEDURE (FED. R. CIV. P.) 5(d)(4).

STATEMENT OF THE CASE

IN 2009 I WAS TRIED AND CONVICTED UNDER WAYNE COUNTY CIRCUIT COURT CASE 09-003770-01, THE PEOPLE OF THE STATE OF MICHIGAN VERSUS DOUGLAS CORNELL JACKSON. I APPEALED MY CONVICTION AND SENTENCE TO EACH LEVEL OF THE MICHIGAN STATE APPELLATE COURT SYSTEM. SEE PEOPLE V. JACKSON, NO. 295994 (MICH. CT. APP. APR. 21, 2011), LEAVE TO APPEAL DENIED. PEOPLE V. JACKSON, NO. 143249 (MICH. NOV. 21, 2011); PEOPLE V. JACKSON, NO. 308329 (MICH. CT. APP. SEPT. 3, 2013). LEAVE TO APPEAL DENIED. PEOPLE V. JACKSON, NO. 147916 (MICH. JAN. 31, 2014).

ON MAY 5, 2015, I FILED A PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 USC § 2254, WHICH WAS HELD IN ABEYANCE TO PERMIT ME TO RETURN TO THE STATE COURTS TO EXHAUST ADDITIONAL CLAIMS WHICH HAD NOT YET BEEN PRESENTED TO THE STATE COURTS. JACKSON V. PARISH, NO. 2:15-cv-11622 (ECF Nos. 1-2, 5.) ON JULY 16, 2015, I FILED A POST-CONVICTION MICH. CT. R. 6.502(A) MOTION FOR RELIEF FROM JUDGMENT WITH THE TRIAL COURT, BUT IT WAS RETURNED BY ORDER DATED JANUARY 21, 2016, BECAUSE IT EXCEEDED THE PAGE LIMIT. THE STATE TRIAL JUDGE ENCOURAGED ME TO RESUBMIT THE MOTION AFTER REDACTING MY ISSUES AND ARGUMENTS TO A MANAGEABLE LENGTH.

I RE-SUBMITTED THE MOTION ON MAY 24, 2016, THIS MOTION

WAS DENIED BY THE TRIAL COURT ON NOVEMBER 21, 2016 IN AN ORDER THAT CHARACTERIZED THE MOTION AS SUCCESSIVE AND DENIED RELIEF UNDER MICH. CT. R. 6.502(G). PEOPLE V. JACKSON, No. 09-003770-01- (WAYNE CTY. CIR. CT. NOV. 21, 2016). ON DECEMBER 9, 2016, I TIMELY FILED A MOTION FOR RECONSIDERATION. THE TRIAL COURT REFUSED TO ADJUDICATE MY RECONSIDERATION MOTION, AND ON DECEMBER 14, 2017, THE CHIEF JUDGE OF THE THIRD JUDICIAL CIRCUIT WARNED ME NOT TO FILE ANY MORE PLEADINGS OR LETTERS UNDER CASE 09-003770-01-FC OR HE WOULD SANCTION ME. (REVIEW 12/14/17 LETTER, ATTACHED AS APPX 1)

I SOUGHT RELIEF IN THE MICHIGAN SUPREME COURT, AND ON SEPTEMBER 10, 2019, THAT COURT REMANDED THE CASE OF PEOPLE V. JACKSON, WAYNE COUNTY COURT CASE 09-003770-01-FC, TO THE WAYNE COUNTY CIRCUIT COURT. PEOPLE V JACKSON, No. 159436 (MICH. SEPT. 10, 2019) MY STATE TRIAL JUDGE (VONDA R. EVANS.) RETIRED ON FEBRUARY 15, 2019 WITHOUT DECIDING THE MOTION FOR RECONSIDERATION DATED DECEMBER 9, 2016. THEREAFTER, CASE 09-003770-01-FC WAS TRANSFERRED TO JUDGE REGINA D. THOMAS. (REVIEW MSC, STATE COURT ADMINISTRATIVE OFFICE 1/3/20 LETTER; AND NICOLE SCOTT'S 12/3/19 LETTER, ATTACHED AS EXHIBIT 2)

SIMILAR TO JUDGE EVANS AND JUDGE COLOMBO, JUDGE THOMAS REFUSED TO ADJUDICATE MY MOTION OR OBEY THE MICHIGAN SUPREME

COURT'S SEPTEMBER 10, 2019 ORDER, ON JULY 30, 2020, I SUBMITTED MY MOTION TO LIFT STAY; SIGNED AMENDED PETITION FOR WRIT OF HABEAS CORPUS TO THE U.S. DISTRICT COURT EASTERN DISTRICT OF MICHIGAN, OFFICE OF THE CLERK FOR FILING. TO DATE, THE DISTRICT COURT CLERK HAS FAILED / REFUSED TO FILE MY FEDERAL PLEADINGS.

ON OCTOBER 14, 2020, WAYNE COUNTY THIRD CIRCUIT COURT JUDGE NOAH P. HOOD, DETERMINED THAT THE TRIAL JUDGE'S NOVEMBER 21, 2016 ORDER THAT CHARACTERIZED MY MAY 24, 2016 MOTION FOR RELIEF FROM JUDGMENT AS SUCCESSIVE WAS ERRONEOUS. PEOPLE V. JACKSON, NO. 09-003770-01 (WAYNE CTY. CIR. CT. OCT. 14, 2020.) JUDGE HOOD'S OPINION AND ORDER STATES, 'THAT THE COURT WOULD ADDRESS MY MOTION FOR RECONSIDERATION THAT WAS FILED ON DECEMBER 9, 2016; 'THE COURT WOULD APPOINT POST-CONVICTION COUNSEL TO REPRESENT ME MOVING FORWARD; AND THE COURT WOULD GIVE ME AND MY NEWLY APPOINTED COUNSEL AN OPPORTUNITY TO SUPPLEMENT, CORRECT, OR RESUBMIT MY FILINGS PURSUANT TO CERTAIN PAGE LIMITS. ID.

IN VIOLATION OF MICH. COMP. LAWS § 780.712(6) JUDGE NOAH PAGE HOOD SELECTED AND APPOINTED ATTORNEY KIANA EVELINA LEE FRANULIC, ON NOVEMBER 20, 2020. TO DATE, ATTORNEY FRANULIC HAS NEVER SPOKEN WITH ME, CONTACTED ME, NOR MET WITH ME. ON FEBRUARY 2, 2021, I FILED A PETITION FOR WRIT OF MANDAMUS IN THE UNITED STATES COURT OF APPEALS, SEEKING AN ORDER COMPELLING THE UNITED STATES DISTRICT COURT CLERK TO FILE MY MOTION TO LIFT STAY AND AMENDED SIGNED PETITION FOR WRIT OF HABEAS CORPUS. IN RE

JACKSON, No. 21-1110 (U.S. COA 6TH CIR. FEB 2, 2021).

ON MARCH 8, 2021, I FILED A PETITION FOR WRIT OF MANDAMUS IN THE UNITED STATES DISTRICT COURT, DOUGLAS JACKSON v. KIANA EVELINA LEE FRANULIC, NO. 2:21-cv-10713 (E.D. MICH.) I REQUESTED THAT COURT TO COMPEL ATTORNEY FRANULIC TO HELP ME CORRECT, OR RESUBMIT MY MOTION FOR RELIEF FROM JUDGMENT AS ORDERED BY STATE COURT JUDGE NOAH PAGE HOOD, OR RELIEVE HERSELF FROM CASE 09-003770-01. THE FEDERAL JUDGE HAS NOT ADJUDICATED MY MARCH 8, 2021 MANDAMUS PETITION.

ON APRIL 19, 2021, THE CHIEF JUDGE (TIMOTHY M. KENNY) OF THE THIRD JUDICIAL CIRCUIT APPOINTED ATTORNEY ROBERT TOMAK, AS MY COUNSEL IN POST-CONVICTION PROCEEDINGS. (SEE ORDER REGARDING APPOINTMENT OF APPELLATE COUNSEL AND TRANSCRIPT, ATTACHED AS APPX 3) DUE TO A CONFLICT OF INTEREST, AND BREAKDOWN IN COMMUNICATION BETWEEN MYSELF AND ATTORNEY ROBERT TOMAK, I FILED A MOTION FOR SUBSTITUTE COUNSEL, IN THE TRIAL STATE COURT ON JUNE 16, 2021. AS OF OCTOBER - 2021 THE STATE COURT HAS NOT ADJUDICATED THAT MOTION.

ON SEPTEMBER 28, 2021, THE U.S. COURT OF APPEALS DENIED MY PETITION FOR A WRIT OF MANDAMUS. IN RE DOUGLAS JACKSON, No. 21-1110 (U.S. COA. 6TH CIR. SEPT. 28, 2021). I SOUGHT ASSISTANCE FROM IONIA CORRECTIONAL FACILITY LIBRARIAN JOSEPH NOVAK, PREPARING AND FILING THIS PETITION AND WAS DENIED WITHOUT A REASONABLE RELATED PENALOGICAL INTEREST. NOVAK HAS TOLD ME THAT HE WILL NOT RETURN THE COURT OF APPEALS SEPTEMBER 28, 2021 ORDER. I CANNOT MAKE HIM GIVE IT BACK TO ME. THUS, I AM PREVENTED FROM COMPLYING TO RULE 20.3

ARGUMENT

I. THE UNITED STATES DISTRICT COURT CLERK WAS NOT CONSTITUTIONALLY AUTHORIZED TO REFUSE TO FILE A PRO SE LITIGANTS PETITION FOR HABEAS CORPUS.

THIS CASE TURNS ON WHETHER A COURT "CLERK" CAN CONSTITUTIONALLY REFUSE TO FILE A PRO SE INMATES MOTION TO LIFT A STAY, AND THE INMATES AMENDED HABEAS CORPUS PETITION. THE LOWER FEDERAL COURT'S IN MY CASE DID NOT REQUIRE THE CLERK TO JUSTIFY HER ACTIONS, SO THERE IS NO RECORD CONTAINING THE FACTS OR LAW, OR WHICH THE CLERK MAY HAVE RELIED ON IN MAKING HER DECISION NOT TO FILE MY MOTION AND HABEAS PETITION, WHICH RAISED ON¹ EXHAUSTED GROUNDS FOR RELIEF. (SEE GROUNDS FOR RELIEF ATTACHED IN APP'X 4)

MY PRO SE ACTION WAS IN ACCORD WITH THE COURT HOLDING IN ROSE v. LUNDY, 455 US 509 (1982). THERE, THIS COURT DIRECTED DISTRICT COURTS TO OFFER A CHOICE TO STATE PRISONERS WITH MIXED PETITIONS: THEY COULD AMEND THOSE PETITIONS TO REMOVE ANY UNEXHAUSTED CLAIMS. SEE ROSE, 455 US AT 510. THEREFORE, WITHOUT A RECORD FOR THE CLERK'S INTENTIONAL VIOLATION OF THE HOLDING IN ROSE, THE ONLY PLAUSIBLE REASON FOR REFUSING TO FILE MY MOTION AND HABEAS

PETITION WAS DISCRIMINATION. THE FIFTH AMENDMENT'S DUE PROCESS CLAUSE PROHIBITS THE FEDERAL GOVERNMENT FROM ENGAGING IN DISCRIMINATION THAT IS SO UNJUSTIFIABLE AS TO BE VIOLATIVE OF DUE PROCESS. SEE SCHLESINGER V. BALLARD, 419 US 498, 500 N. 3 (1975) (QUOTING BOILING V. SHARPE, 347 US 497, 499 (1954)).

HERE, IN MY CASE, THE "CLERK" INTENTIONALLY PREVENTED THE FILING OF A PRO SE INMATES HABEAS PETITION, THEREBY CONTRAVENING THE PRINCIPLES OF FUNDAMENTAL RIGHT OF ACCESS TO THE COURTS BASED ON THE DUE PROCESS CLAUSE OF THE FIFTH AND FOURTEENTH AMENDMENTS, AND THE PRIVILEGES AND IMMUNITIES CLAUSE OF ARTICLE IV OF THE UNITED STATES CONSTITUTION. SEE, E.G., WOLF V. MCDONNELL, 418 US 539, 579 (1974) ("THE RIGHT OF ACCESS TO THE COURTS, ... IS FOUNDED IN THE DUE PROCESS CLAUSE AND ASSURES THAT NO PERSON WILL BE DENIED THE OPPORTUNITY TO PRESENT TO THE JUDICIARY ALLEGATIONS CONCERNING VIOLATIONS OF FUNDAMENTAL CONSTITUTIONAL RIGHTS."); CHAMBERS V. BALTIMORE & OHIO RR CO, 207 US 142, 148 (1907) (STATING THE RIGHT TO ACCESS TO THE COURTS IS "ONE OF THE HIGHEST AND MOST ESSENTIAL PRIVILEGES OF CITIZENSHIP... GRANTED AND PROTECTED BY THE FEDERAL CONSTITUTION"); JOHNSON V. AVERY, 393 US 483 (1969) (HOLDING ACCESS OF PRISONERS TO COURTS FOR PURPOSE OF PRESENTING PETITIONS FOR HABEAS CORPUS MAY NOT BE DENIED OR OBSTRUCTED); SEE ALSO ARTICLE I SECTION 9 OF THE U.S. CONSTITUTION. ("THE PRIVILEGE OF THE WRIT OF HABEAS CORPUS SHALL NOT BE SUSPENDED...").

IT IS NOT THE ROLE OF U.S. DISTRICT COURT CLERKS TO REFUSE TO FILE A MOTION TO LIFT STAY AND AMENDED HABEAS PETITION, BECAUSE SUCH CONDUCT, AS HERE, EXPOSES THE PRO SE PETITIONER TO THE HAZARDS OF PROTECTED UNCONSTITUTIONAL IMPRISONMENT, AND UNNECESSARILY FINANCIAL BURDENS RESULTING FOR REPEATED INDIGENT POSTAGE AND LEGAL PHOTOCOPYING REQUIREMENTS. THE ENFORCEMENT OF THE FEDERAL RULES OF CIVIL PROCEDURAL AND OF THE LOCAL RULES IS THE ROLE FOR A JUDICIAL OFFICER. SEE FED. R. CIV. P. 5(d)(4), AND ACCOMPANYING ADVISORY COMMITTEE NOTES (1991 AMENDMENT).

IN MY CASE, THE U.S. COURT OF APPEALS, OVERLOOKS OR COMPLETELY IGNORES THE ABOVE IDENTIFIED CONSTITUTIONAL PROVISIONS, AND HOLDINGS OF THIS COURT RESPECTING AN INMATES FUNDAMENTAL RIGHT OF ACCESS TO THE COURTS AND SUBSTANTIVE DUE PROCESS, WITHOUT REQUIRING THE CLERK TO PROVIDE A RATIONAL FOR HER CONDUCT, THE COURT OF APPEALS REFERENCES ITS JUDGMENT IN IN RE JACKSON, No. 21-1249 (6TH CIR. MAY 28, 2021). THERE, THE COURT OF APPEALS SAID, JACKSON'S STATE COURT PROCEEDINGS ARE STILL PENDING; THAT I WAS NOT ENTIRELY PROHIBITED FROM FILING IN THE DISTRICT COURT; AND THAT I "MUST" EXHAUST MY STATE COURT REMEDIES. SEE IN RE DOUGLAS JACKSON, No. 21-1110 (6TH CIR. SEPT. 28, 2021).

HOWEVER, SUCH REASONING MAKES LITTLE SENSE: (a) I COMPLETED MY DIRECT APPEAL BEFORE I SUBMITTED MY MOTION TO LIFT STAY AND MY AMENDED § 2254 PETITION TO THE OFFICE OF THE U.S. DISTRICT COURT CLERK; (b)

THE FACT THAT THE DISTRICT COURT CLERK, DID INDEED PROHIBITED ME FROM FILING MY AMENDED § 2254 PETITION CUTS AGAINST THE COURT OF APPEALS STATEMENTS TO THE CONTRARY, INDEED, LIKE OTHER CIVIL ACTIONS, § 2254 PETITIONS ARE GOVERNED BY THE NORM THAT A DISTRICT COURT MUST EXERCISE ITS FULL STATUTORY JURISDICTION. THUS, THE DISTRICT COURT RETAINS JURISDICTION OVER A PETITION FOR WRIT OF HABEAS CORPUS DURING THE COURSE OF A STAY. UNDER THE FOREMENTED CIRCUMSTANCES OF THIS INSTANT CASE, THE 6-YEAR STAY IS AS MUCH A REFUSAL TO EXERCISE FEDERAL JURISDICTION AS A DISMISSAL. THIS COURT HAS RECOGNIZED ONE SUCH CIRCUMSTANCE IN MOSES H. COKE MEM. HOSP. v. MERCURY CONSTR. CORP., 460 US 1, 28 (1983); (c) MY POST-CONVICTION PROCEEDINGS HAVE LANGUISHED ON THE STATE TRIAL COURT'S DOCKET FOR MORE THAN FIVE YEARS DUE IN PART TO JUDGE VONDA R. EVANS' NOVEMBER 21, 2016 JUDGMENT, WHICH WAS NON-APPEALABLE, AND JUDGE NOAH PAGE HOOD'S APPOINTMENT OF SHAM POST-CONVICTION COUNSEL. FAILURES OF COURT-APPOINTED COUNSEL AND DELAYS BY THE COURT ARE ATTRIBUTABLE TO THE STATE. BARKER v. WINGO, 407 US 514, 531 ("THE ULTIMATE RESPONSIBILITY FOR SUCH CIRCUMSTANCES AS NEGLIGENCE OR OVERCROWDED COURTS MUST REST WITH THE GOVERNMENT RATHER THAN WITH THE DEFENDANT.")

HENCE, THE EXHAUSTION REQUIREMENT IS NOT ABSOLUTE. THE INORDINATE DELAY IN ADJUDICATING STATE COURT CLAIMS MAY BE A CIRCUMSTANCE WHICH WOULD EXCUSE THE EXHAUSTION OF STATE COURT REMEDIES, ESPECIALLY WHEN, AS HERE, THE STATE IS RESPONSIBLE FOR THE DELAY. WORKMAN v. TATE

957 F2D 1339, 1344 (6TH CIR. 1992). THAT COURT HELD THAT A HABEAS PETITIONER'S FAILURE TO EXHAUST HIS STATE POSTCONVICTION REMEDIES WOULD BE EXCUSED WHERE THE PETITIONER'S MOTION FOR POST-CONVICTION RELIEF LANGUISHED IN THE STATE COURTS FOR MORE THAN THREE YEARS WITHOUT THE STATE COURT MAKING A DECISION. WORKMAN, 957 F2D AT 1344. SIMILARLY, THE TENTH CIRCUIT HAS HELD THAT THERE IS A REBUTTABLE PRESUMPTION THAT THE STATE APPELLATE COURT PROCESS WILL BE DEEMED INEFFECTIVE IF THE STATE HAS BEEN RESPONSIBLE FOR A DELAY OF MORE THAN TWO YEARS IN ADJUDICATING A HABEAS PETITIONER'S DIRECT CRIMINAL APPEAL. HARRIS v. CHAMPION, 48 F3D 1127, 1132 (10TH CIR. 1995). SEE ALSO 28 USC § 2254(b)(1)(B)(i)(ii).

THEREFORE, DEPITE THE COURT OF APPEALS' CONTENTIONS TO THE CONTRARY, AT THE TIME I FILED MY PRO SE PETITION FOR WRIT OF MANDAMUS, I DID NOT HAVE AN ADEQUATE ALTERNATIVE MEANS TO COMPEL THE UNITED STATES DISTRICT COURT TO FILE MY MOTION TO LIFT STAY AND AMENDED PETITION FOR WRIT OF HABEAS CORPUS. I HAVE MADE FREQUENT BUT UNAVAILING REQUEST TO HAVE MY AMENDED HABEAS PETITION, AND STATE POST-CONVICTION PROCEEDINGS PROCESSED. I SHOULD NOT BE REQUIRED TO TAKE FURTHER FUTILE STEPS IN STATE OR LOWER FEDERAL COURTS IN ORDER TO BE HEARD IN THIS COURT, EVEN IF THE STATE COURT SUBSEQUENTLY DECIDES HIS (MY) POST-CONVICTION MOTION FOR RELIEF FROM JUDGMENT. SEE SIMMONS v. REYNOLDS, 898 F2D 865, 867-68 (2ND CIR. 1990); LUCAS v. MICHIGAN, 420 F2D 259 (6TH CIR. 1970).

REASON FOR GRANTING THE PETITION

IT APPEARS THAT CLERK, LISA NESBITT, DOES NOT UNDERSTAND JACKSON'S PRO SE PETITION FOR WRIT OF MANDAMUS WHICH HE DESIRES TO HAVE FILED PURSUANT TO 28 USC § 1651. JACKSON'S PETITION DEMONSTRATES THAT PURSUANT TO THE HOLDING IN ROSE V LUNDY, 455 US 509 (1982) JACKSON RESUBMITTED HIS PETITION FOR WRIT OF HABEAS CORPUS PRESENTING ONLY EXHAUSTED FEDERAL GROUNDS, ON JULY 30, 2020, TO THE DISTRICT COURT. THE UNITED STATES DISTRICT COURT CLERK, NINIKIA LESSIX, DECIDED FOR HERSELF NOT TO FILE JACKSON'S 28 USC § 2254 HABEAS PETITION. AS SUCH, NO APPEAL WAS AVAILABLE TO JACKSON. THEREFORE, JACKSON, ON FEBRUARY 2, 2021, FILED A MANDAMUS PETITION IN THE UNITED STATES COURT OF APPEALS AS THE NEXT COURT HIGHER UP SEEKING AN ORDER COMPELLING CLERK LESSIX TO FILE HIS HABEAS PETITION.

THE U.S. COURT OF APPEALS DENIED JACKSON PETITION FOR A WRIT OF MANDAMUS BECAUSE JACKSON'S "2015" STATE COURT POSTCONVICTION PROCEEDINGS ARE STILL PENDING IN THE STATE TRIAL COURT, AND DECIDED THAT JACKSON "MUST" EXHAUST HIS UNEXHAUSTED STATE COURT REMEDIES. IN RE: DOUGLAS CORNELL JACKSON, No. 21-1110 (U.S. CT. APP. SEPT. 28, 2021). IONIA CORRECTIONAL FACILITY (ICF), LIBRARIAN JOSEPH NOVAK, REFUSED TO PROVIDE JACKSON WITH MEANINGFUL ACCESS TO THE UNITED STATES SUPREME COURT. THEREBY PRECLUDING JACKSON FROM SEEKING REVIEW IN THIS COURT. NONETHELESS, JACKSON SOUGHT MANDAMUS RELIEF IN THIS COURT SINCE OCTOBER 15, 2021, TO NO AVAIL.

MS. LISA NESBITT, APPEARS NOT TO UNDERSTAND THAT JACKSON HAS NO OTHER SPEEDY, ADEQUATE MEANS TO COMPEL NINIKIA LESSIX, TO DOCKET HIS MOTION TO LIFT STAY AND HABEAS PETITION, WHICH JACKSON

ESTABLISHES. JACKSON DEMONSTRATED HIS RIGHT TO ISSUANCE OF THE MANDAMUS RELIEF THAT HE SEEKS BELOW BECAUSE THE UNITED STATES SUPREME COURT AUTHORIZED JACKSON TO DO WHAT HE DID. SEE ROSE V. LUNDY, 455 U.S., AT 510.

HERE, THE COURT OF APPEALS IS AN INFERIOR COURT. IT CLEARLY ABUSED ITS DISCRETION BY DETERMINING THAT JACKSON'S "MUST" EXHAUST HIS STATE COURT POSTCONVICTION PROCEEDINGS. THERE IS NO OTHER MEANS TO CORRECT THE COURT OF APPEALS' ABUSE, WHICH IS AT ODDS WITH ROSE V. LUNDY, SUPRA. CLEARLY FAIRMINDED JURIST WOULD NOT DEBATE, BUT WOULD RATHER DETERMINE THAT THE STATE COURT'S SEVEN YEAR, INEXCUSABLE DELAY WAIVERS THE ISSUANCE OF THE WRIT. BECAUSE IT IS APPROPRIATE WHERE SUCH DELAY HAS RISEN TO AN INDEPENDENT DUE PROCESS VIOLATION. HENCE, JACKSON HAS MET THE THREE CONDITIONS IDENTIFIED IN CHENEY V. UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA, 542 U.S. 367, 380-81 (2004).

THE UNITED STATES COURT OF APPEALS EXACERBATED "NINIKIA ESSIX'S" DECISION TO DEFEND APPELLATE REVIEW OF JACKSON'S HABEAS PETITION CONTAINING ONLY EXHAUSTED FEDERAL CLAIMS. THE U.S. DISTRICT COURT DID NOT ISSUE ANY ORDER AUTHORIZING "ESSIX'S" INTENTIONAL INTERFERENCE WITH JACKSON'S ACCESS TO THE FEDERAL COURT.

THE COURT OF APPEALS JUDGMENT CUTS AGAINST SIMMONS V. REYNOLDS, 898 F2D 865, 867-68 (2ND CIR. 1990), AND LUCAS V. MICHIGAN, 420 F2D 259 (6TH CIR. 1970). SEE ALSO 28 USC § 2254(b)(1)(B). THEREFORE, THE U.S. COURT OF APPEALS' CONCLUSION THAT JACKSON COULD ~~COMPEL~~ ASK THE MICHIGAN COURT OF APPEALS TO COMPEL ADJUDICATION OF HIS ACTION PENDING IN THE STATE TRIAL COURT. SUCH A CONCLUSION DOES NOT CORRECT NINIKIA ESSIX'S UNCONSTITUTIONAL REFUSAL TO FILE JACKSON'S COMPLETELY EXHAUSTED FEDERAL

CONSTITUTIONAL CLAIMS. IT THUS FOLLOWS THAT SUBJECT MATTER OF THIS COURT'S ACTION IS WITHIN JURISDICTION OF APPELLATE COURT FOR PURPOSES OF ALL WRITS ACT, SEE ALSO 28 USC § 1361.

THE SEVEN YEAR DELAY IN PROCESSING JACKSON'S POST-CONVICTION MOTION FOR RELIEF FROM JUDGMENT IN THE STATE TRIAL COURT DEPRIVED HIM OF THE SWIFT AND IMPERATIVE REMEDY TO WHICH HE WAS CONSTITUTIONALLY ENTITLED, AND HENCE THE U.S. COURT OF APPEALS FRUSTRATED THE PROPER ADMINISTRATION OF JUSTICE. JACKSON IS BARRED FROM BRINGING A SEPARATE ACTION IN THE STATE COURT BY MICH. COMP. LAWS § 600.2963(8).

AGAIN, JACKSON CANNOT APPEAL THE U.S. COURT OF APPEALS SEPTEMBER 28, 2021 ORDER; THE COURT OF APPEALS' ORDER ENTAILS SUBSTANTIAL DELAY THEREBY DEPRIVING JACKSON OF HIS PRINCIPAL INTEREST IN OBTAINING SPEEDY FEDERAL RELIEF ON HIS CONSTITUTIONAL CLAIMS. SEE BRADEN V. 30TH JUDICIAL CIRCUIT COURT OF KENTUCKY, 410 US 484, 490 (1973); LASTLY, THE COURT OF APPEALS' ORDER IS NOT IN HARMONY WITH WORKMAN V. TATE, 957 F2D 1339, 1344 (6TH CIR. 1992), AND HARRIS V. CHAMPION, 48 F3D 1137, 1132 (10TH CIR. 1995); SEE ALSO TURNER V. BAGLEY, 401 F3D 718 (6TH CIR. 2005).

FOR ALL OF THESE REASONS, JACKSON'S SITUATION DOES INVOLVE A REALLY EXTRAORDINARY CAUSE WHICH REQUIRES THE DRAMATIC AND EXTRAORDINARY REMEDY OF A WRIT OF MANDAMUS. A WRIT OF MANDAMUS IS A COMMON LAW REMEDY WHICH A COURT GRANTS PURSUANT TO 28 USC § 1651(a). ATTACHED ARE: (1) JANUARY 28, 2021, COURT OF APPEALS PETITION FOR WRIT OF MANDAMUS WITH THE EXHIBITS; AND COURT OF APPEALS SEPTEMBER 28, 2021 ORDER.
(2)

JACKSON DOES NOT HAVE MEANINGFUL ACCESS TO THIS COURT AND ASK THAT THIS PETITION FOR AN EXTRAORDINARY WRIT BE READ INDULGENTLY AS THIS COURT HELD IN HAINES V. KERNER, 404 US 519, 520 (1972). THE LOWER UNITED STATES COURT OF APPEALS COURT IS AWARE THAT JACKSON SOUGHT A WRIT OF MANDAMUS ASKING THAT IT COMPEL THE DISTRICT COURT CLERK TO FILE HIS MOTION TO LIFT STAY AND AMENDED PETITION FOR A WRIT OF HABEAS CORPUS. THE COURT HAS AUTHORITY TO ISSUE SUCH A WRIT UNDER 28 USC § 1651 AND FEDERAL RULE OF APPELLATE PROCEDURE 21.

ACCORDING TO JACKSON'S LIMITED UNDERSTANDING IN THESE LEGAL MATTERS, IT APPEARS TO HIM THAT HIS REQUEST WAS DENIED FOR REASONS STATED IN IN RE JACKSON, NO. 21-1249 (6TH CIR. MAY 28, 2021). IF JACKSON IS CORRECT, THAN THE U.S COURT OF APPEALS ABUSED ITS DISCRETION. AND IF THE INSTANT COURT DETERMINES THAT SUCH ABUSE WAS CLEAR, THAN IT IS JUSTIFIED IN INVOCATION OF THE REMEDY JACKSON REQUEST BELOW. SEE, E.G., BANKERS LIFE & CASUALTY CO. V. HOLLAND, 346 US 379, 383 (1953), AND WILL V. UNITED STATES, 389 US 90, 95 (1967).

HERE, THE UNITED STATES DISTRICT COURT CLERK, NINIKIA LESSIX, HAS NEVER EXPLAINED TO A COURT WHY SHE REFUSED TO TIMELY FILE JACKSON'S LEGAL PAPERS IN THE DISTRICT COURT AS HER CLEAR DUTIES MANDATE. WITHOUT AN EXPLANATION WHY MS. LESSIX, INTENTIONALLY CURTAILED JACKSON'S FUNDAMENTAL RIGHT OF MEANINGFUL ACCESS TO THE COURTS. INMATES HAVE A RIGHT OF ACCESS TO THE COURTS. SEE LEWIS V. CASEY, 518 US 343, 351 (1996), AND SIMS V. LANDRUM, 170 FED. APPX.

954, 956 (6th Cir. 2006).

THE LOWER COURT EXACERBATED THE CONSTITUTIONAL VIOLATION BY DECIDING THAT JACKSON "MUST" EXHAUST HIS STATE REMEDIES. AS ESTABLISHED ABOVE, JACKSON'S STATE POSTCONVICTION MOTION FOR RELIEF HAS LANQUISHED IN THE STATE COURT FOR MORE THAN THREE YEARS. THIS COURT HAS SAID THAT THE FAILURE TO EXHAUST STATE REMEDIES DOES NOT DEPRIVE AN APPELLATE COURT JURISDICTION TO CONSIDER THE MERITS OF A HABEAS CORPUS APPLICATION. SEE GRANBERG V. GREER, 481 US 129, 131 (1987), ROSE V. LUNDY, 455 US 509, 515-516 (1982).

THEFORE, THESE HOLDINGS APPLY EQUALLY TO JACKSON'S CASE.

THE LOWER COURT FURTHER ABUSED IT DISCRETION BY EXACERBATING THE INEXCUSABLE OR INORDINATE DELAY BY THE STATE IN PROCESSING JACKSON'S CLAIMS FOR RELIEF BY INDICATING THAT JACKSON COULD START A NEW STATE ACTION IN THE MICHIGAN COURT OF APPEALS TO COMPEL ADJUDICATION OF HIS ACTION PENDING IN THE STATE TRIAL COURT. THUS, IT UNREASONABLY DETERMINED THAT JACKSON HAD AVAILABLE ALTERNATIVE REMEDIES. HOWEVER, THAT DECISION IS CONTRARY TO THE HOLDING IN ROSE V. LUNDY, supra, AT 510. WHEREIN THE PRISONER WAS GIVEN A "CHOICE" OF AMENDING OR RESUBMITTING THE HABEAS PETITION TO PRESENT, AS JACKSON DID, ONLY EXHAUSTED CLAIMS TO THE DISTRICT COURT. SEE ALSO, BRADEN V. 30TH JUDICIAL CIRCUIT COURT OF KENTUCKY, 410 US 484, 490 (1973)(THE PRISONER'S PRINCIPAL INTEREST, OF COURSE, IS IN OBTAINING SPEEDY FEDERAL RELIEF ON HIS CLAIMS.))

BECAUSE THE INEXCUSABLE OR INORDINATE DELAY IN PROCESSING JACKSON'S POST-CONVICTION MOTIONS FOR RELIEF IN THE STATE COURTS HAVE DEPRIVED HIM OF THE SWIFT AND IMPERATIVE REMEDY TO WHICH HE WAS CONSTITUTIONALLY ENTITLED, AND HAS NOW GIVEN RISE TO AN INDEPENDENT DUE PROCESS CLAIM, SEE E.G., SIMMONS V. REYNOLDS, 898 F2D 845, 868 (2D CIR. 1990), THE MANDAMUS WRIT IS APPROPRIATE.

THE DUE PROCESS CLAUSE PROVIDES THAT "NO PERSON SHALL ... BE DEPRIVED OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW". U.S. CONST. AMEND. V. SIMILARLY, THE FOURTEENTH AMENDMENT PROVIDES " NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW." AMEND. XIV, 1. IN JACKSON'S CASE THE U.S. COURT OF APPEALS DID NOT REQUIRE DISTRICT COURT CLERK TO RESPOND TO JACKSON'S MANDAMUS PETITION NOR DID IT COMPEL DISTRICT COURT CLERK NINIA ESSIX TO PERFORM A DUTY OWED TO JACKSON.

JACKSON DID NOT, AND DOES NOT NOW HAVE ANOTHER "SPEEDY" ADEQUATE MEANS TO ATTAIN THE FILING OF HIS LEGAL PAPERS AT ISSUE. UTILIZING SUPREME COURT PRECEDENTS ABOVE CONCERNING INEXCUSABLE OR INORDINATE DELAY AS APPLIED TO JACKSON'S STATE COURT PROCEEDINGS DEMONSTRATE HIS RIGHT TO ISSUANCE OF THE WRIT. THIS COURT CAN ISSUE WRITS OF MANDAMUS AS MAY BE NECESSARY OR APPROPRIATE TO EFFECTUATE AND PREVENT THE FRUSTRATION OF ORDERS IT HAS PREVIOUSLY ISSUED IN ITS EXERCISE OF JURISDICTION OTHERWISE OBTAINED. SEE, E.G., ADAMS V. UNITED STATES EX REL. McCANN, 317 US 269, 273 (1942). HERE, THIS COURT HAS ORIGINAL JURISDICTION TO COMPEL AN OFFICER OR EMPLOYEE OF THE UNITED STATES... TO PERFORM A DUTY OWED TO JACKSON.

THE COURT OF APPEALS' ABUSE OF DISCRETION HAS PREJUDICED JACKSON BECAUSE THIS COURT HAS RECOGNIZED THAT EXCESSIVE DELAY PRESUMPTIVELY COMPROMISES THE RELIABILITY OF A TRIAL IN WAYS THAT NEITHER PARTY CAN PROVE OR, FOR THAT MATTER, IDENTIFY, DOGGETT V. UNITED STATES, 112 SCT 2686, 2693 (1992), AND THE LIKELIHOOD OF INJURY INCREASES WITH THE LENGTH OF THE DELAY, ID. TO SUPPORT SUCH A FINDING OF PREJUDICE, UNJUSTIFIED DELAY UN ACCOMPANIED BY PARTICULARIZED TRIAL PREJUDICE MUST HAVE LASTED LONGER THAN UNJUSTIFIED DELAY DEMONSTRABLY CAUSING SUCH PREJUDICE. ID. AT 2694.

"RELIEF"

FOR ALL OF THESE REASONS, JACKSON'S SITUATION DOES INVOLVE A REALLY EXTRAORDINARY CAUSE WHICH REQUIRES THIS COURT TO VACATE THE UNITED STATES COURT OF APPEALS TO: (1) ALLOWED DISTRICT COURT CLERK NINIKIA ESSIX, TO EXPLAIN "HER" REASONS FOR INTENTIONALLY INTERFERING WITH JACKSON'S FUNDAMENTAL RIGHT OF ACCESS TO THE COURT BY REFUSING TO TIMELY FILE HIS HABEAS CORPUS PETITION THAT CONTAINED ONLY PROPERLY EXHAUSTED FEDERAL CONSTITUTIONAL GROUNDS FOR JACKSON'S RELEASE FROM STATE PRISON; (2) COMPEL THE UNITED STATES COURT OF APPEALS TO VACATE ITS ORDER AND GRANT JACKSON'S MANDAMUS PETITION WITHIN 14 DAYS OF SUCH ORDER. SEE, E.G., EX PARTE FAHEY, 332 US 258, 259-60 (1947).

RESPECTFULLY SUBMITTED,

DATED: MAY/SHEVAT 24, 2022

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