

1.  
Docket No. 22-5885

IN THE UNITED STATES SUPREME COURT

Re: Christopher Surles v. United States, U.S. Circuit Judge Rosenbaum, U.S.  
Circuit Judge Grant, U.S. Circuit Judge Luck, Respondents

On Petition for Rehearing to the U.S. Court of Appeals

Petition for Rehearing

Christopher Surles, Sui Juris

c/o Donaldson Correctional Facility

100 Warrior Lane.

Beasemer, Alabama [35023]

For the record, on the record, let the record show, the foregoing Petition for Rehearing shall be reviewed pursuant to the U.S. Supreme Court Rule 44, Federal Rules of Civil Procedure, and the 5th amendment Due Process clause may have misapprehended or overlooked:

- On 2/18/2022 a Final Judgment was made on 2/18/2022 by U.S. District Judge R. David Proctor. (District Court Docket No. S:21-cv-01236-BDP-JHE)
- On March 30th, the Notice of Appeal was served upon the U.S. District Court. (Case No. 22-11108)
- The time frame between 2/18/2022 and 3/30/2022 is approximately 28 days not counting weekends or holidays. (Perpetual Calendar 1803-2080 World Almanac)
- According to Fed. R. App. P. 4 (1) (B) (i) (ii) The Notice of Appeal may be filed by any party within 60 days after entry of the judgement or order appealed from if one of the parties is (i) the United States (ii) a United States agency.
- The respondents (parties) in the Notice of Appeal (Case No. 22-11108) is the United States, U.S. District Judge R. David Proctor.
- On 5/25/2022, an ORDER of DISMISSAL was made by U.S. Circuit Judge's Rosenbaum, Grant, and Luck (Appeal No. 22-11108), which states "This appeal is dismissed sua sponte, for lack of jurisdiction. Christopher Curles

Seeks to appeal from the district court's Feb. 18th 2022 memorandum, opinion, and Final Judgment dismissing his habeas corpus petition. The timely filing of a Notice of Appeal in a civil case is a jurisdictional requirement, and

- The order of dismissal also states that "A notice of Appeal was due on March 21st, 2022. See 28 USC § 2107 (a) (providing that a notice of appeal is due 30 days after entry of the judgment; Fed. R. App. P. 4 (a) (1) (A), 26 (a) (providing that if the last day of a period falls on a weekend or holiday, the time period runs from the next day that is not a weekend or holiday). Sures Notice of Appeal was dated March 29, and his motion for leave to appeal in forma pauperis including a certificate of service stating that his notice of appeal and IFP Motion were mailed on Mar. 30."

- If the Applicant, Christopher Sures, Notice of Appeal was due 30 days from 2/18/2022 (Date of Final Judgment) (Docket No. 5:21-cv-1236-RDP-JHE) April 1st, 2022 would be the 30 day time limit (not counting the weekend), which is prima facie evidence to make the Notice of Appeal, filed timely.

- On 6/8/2022, the Affidavit to Vacate (Appeal No. 22-11108) (Writ for Certiorari - Appendix H-225885), was served upon the U.S. Appeals Clerk for the 11th Circuit. (6/28/2022 Supplemental Affidavit to Vacate served upon U.S. Appeals Clerk.).

- Based on the merits shown in the Supplemental Affidavit to Vacate (Writ for Certiorari - Appendix H-22-5885), the order of Dismissal (Appeal No.

22-11108), is prejudice to the substantial rights of the Applicant, Christopher Surles, in violation of the Due Process clause of the 5th amendment of the U.S. Constitution.

• Based on plain error made by the U.S. Appeals Court, shown in the foregoing Supplemental Affidavit to Vacate, the Applicant, Christopher Surles, pray that the Order of Dismissal (Case No. 22-11108) be set aside/vacated and the Petition for Rehearing be GRANTED.

2/6/2023  
Date

Christopher Surles  
In Propria Persona; OCC-1-207

CC: U.S. Supreme Court Clerk, 1 First St., N.E., Washington, DC 20543