22-6034

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

Francis Stock — PETITIONER
(Your Name)

vs.

Chanelle Braswell, et al., — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

3rd Circuit Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Francis Stock, No. NL3625
(Your Name)

1200 McKychic Drive
(Address)

Collegeville, Pa. 19426
(City, State, Zip Code)

(Phone Number)

"Questions For Review"

1. Is Prisoner entitled to Notice of Dismissal by the U.S. District Court under the Federal Rules of Civil Procedure?

2. When Prisoner filed his Notice of Appeal within 30 Days of being served Notice that his case was dismissed by The U.S. District Court, Is his Appeal timely filed?

3. Did the Defense establish proof on the record that plaintiff received his Order of Dismissal from the U.S. District Court on October 4, 2021, and that he had been served this legal mail?

4. Does prisoners on-going effects and attempts to receive the final Order of Judgment from the U.S. District Court toll the 30 day jurisdictional filing of the Notice of Appeal when he did not receive the final Orders of the Court until

5. If the 3rd Circuit Court of Appeals does not have jurisdiction to hear the appeal, then how can it charge and collect a fee from prisoner to file the appeal? (If the Court does not have jurisdiction, then it can not issue/enforce any orders/judgments)

TABLE OF AUTHORITIES CITED

LIST OF PARTIES

[✓] All parties appear in the caption of the case on the cover page.

[ ] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

None at this time that specifically address the plaintiff's right to Notice / Service of the documents by the District Court that the Case has been dismissed and closed.

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[✓] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix 1 to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[✓] is unpublished.

The opinion of the United States district court appears at Appendix 5 to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[✓] is unpublished.

[ ] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

JURISDICTION

[✓] For cases from **federal courts:**

The date on which the United States Court of Appeals decided my case was August 11, 2022.

[✓] No petition for rehearing was timely filed in my case, Time was expired by the time I received the Order.

[ ] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. __A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[ ] For cases from **state courts:**

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

[ ] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. __A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Federal Rules of Civil Procedure:

Rule 8, et seq. Fair Notice on pleadings.
Rule 6b, et seq. Excusable Neglect
Clerk's Duties, Title X.

Fundamental Fairness Doctrine:

Fundamental Rights of/under 42 U.S.C. §1983, et seq.
Commonwealth vs. Brown, 52 A.3d 1139, 1162-63, (Pa. 2012)
Commonwealth vs. Kratsas, 764 A.2d 20, 28, (Pa. 2000)

Equal Access To Justice Act:

Prisoner has an absolute Right of Access to the Courts under the First and Fourteenth Amendments of The U.S. Constitution/Bill of Rights.

208 U.S. 412, 420.

140 F. Supp. 925.

389 U.S. 258. Protection from governmental interference.

42 U.S.C. § 1983

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress..."

3 con't.

STATEMENT OF THE CASE

This is a Civil Rights case filed by petitioner under 42 U.S.C.§1983 against an Agent of The Pa. Board of Probation and Parole in 2016, for false imprisonment and an unlawful restraint on Liberty by Respondent, Chanelle Braswell.

The original pleadings were amended a couple of times throughout 2017-2018 and subsequently dismissed by a Summary Judgment Ruling of September 30, 2021, of which petitioner did not receive notice of until mid-may of 2022, at which time a Notice of Appeal was timely filed. Both pleadings are attached hereto as (Exhibit No. 2 and No. 5.)

The 3rd Circuit Court of Appeals granted petitioner leave to proceed in forma pauperis even though it claimed later it lacked jurisdiction to hear the appeal, (See Exhibit 1) of petitioner's forma pauperis application filed contemporaneously with this petition.

On August 11, 2022, The 3rd Circuit Court of Appeals dismissed petitioner's appeal as untimely due to the Notice of Appeal being filed in May, 2022, when the case was dismissed in September, 2021, however, the Court never made a ruling on the fact that petitioner was not served notice of the dismissal until May, 2022, (See Exhibit 1). This Writ of Certiorari timely follows.

REASONS FOR GRANTING THE PETITION

1. Prisoner should not be sanctioned by a clerk's dereliction of official duties.

2. The Public interest is best served when all citizens have fair and equal access to the Courts.

3. Prisoner can not proceed with his legal claims due to a procedural bar not of his own fault.

4. It would be a manifest injustice with no redress available if this High Court does not intervene.

5. This is a case of first impression where this High Court should grant A Writ of Certiorari and establishing controlling precedent from this point forward.

6. In the best interests of justice and fundamental fairness.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Francis W. Stock

Date: November 1, 2022.