

No. 22-6045

IN THE

SUPREME COURT OF THE UNITED STATES

DOUGLAS JACKSON - PETITIONER

IN RE: DOUGLAS CORNELL JACKSON

FILED
OCT 27 2022

OFFICE OF THE CLERK
SUPREME COURT U.S.

ON PETITION FOR WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

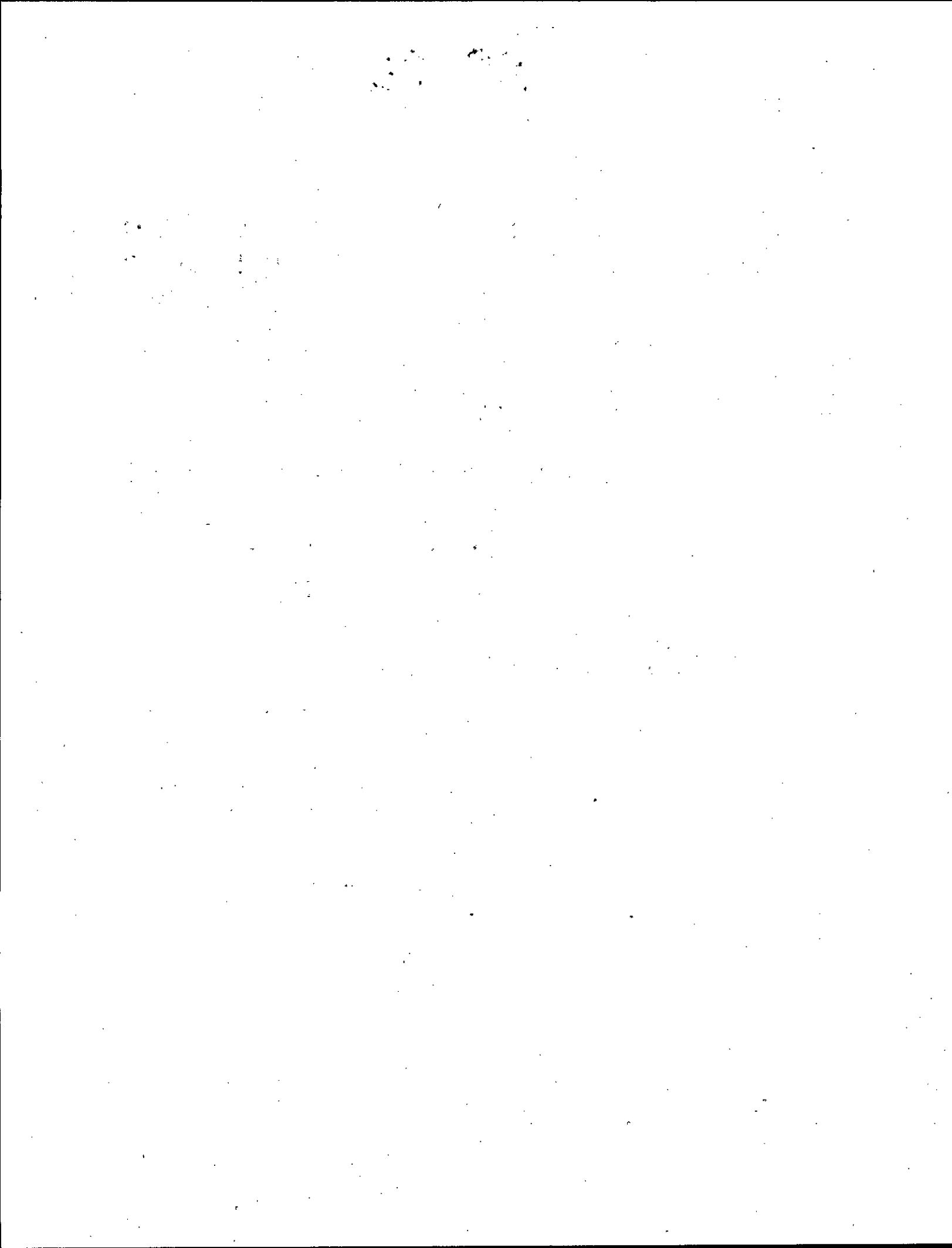
PETITION FOR WRIT OF CERTIORARI

DOUGLAS CORNELL JACKSON

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QUESTIONS PRESENTED

I. CONSIDERING A PRISONER'S RIGHT TO BE FREE FROM WRONGFUL RESTRAINTS UPON THEIR LIBERTY, DOES 28 USC § 2241 PROVIDE THE FEDERAL COURT OF APPEALS SUBSTITUTE JURISDICTION UNDER THE DUE PROCESS CLAUSE.

PETITIONER-APPELLANT ANSWERS, "NO"

LIST OF PARTIES

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

RELATED CASES

PEOPLE OF MI. V. DOUGLAS CORNELIUS JACKSON, No. 09-003770-01 (WAYNE CTN4 CIR. CT.).

DOUGLAS JACKSON V. LES PARISH, No. 2:15-cv-11622 (E.D. MICH.).

DOUGLAS JACKSON V. NOAH PAGE HOOD, No. 21-2631 (U.S. CT. APP.)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

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.

THE PRIVILEGE OF THE WRIT OF HABEAS CORPUS SHALL NOT BE SUSPENDED,.... ART. I, SEC. 9.

FEDERAL STATUTE

28 USC § 2254 (b)(1) (B)(ii)

28 USC § 2241(a)

28 USC § 2254(1)

JURISDICTION

For cases from federal courts:

The date on which the United States Court of Appeals decided my case was SEPT. 01, 2022.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: SEPT 28, 2022, 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).

STATEMENT OF THE CASE

ON MAY 5, 2015, PETITIONER DOUGLAS JACKSON, IN PRO SE, FILED A PETITION FOR WIRIT OF HABEAS CORPUS (ECF No. 1), AND MOTION (ECF No. 2) TO STAY AND ABEGANCE OF HABEAS PROCEEDINGS TO PERMIT HIM TO RETURN TO THE STATE COURTS TO PRESENT ADDITIONAL CLAIMS THAT HAVE NOT BEEN EXHAUSTED WITH THE STATE COURTS AND THAT WERE NOT INCLUDED IN THAT HABEAS PETITION.

THE UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN (DETROIT) GRANTED THE MOTION TO STAY AND ABEGANCE OF HABEAS PROCEEDING. (ECF No. 3) JACKSON v DAVIDS, No. 2:15-cv-11622 (E.D. MIC). JACKSON FILED HIS MOTION FOR RELIEF FROM JUDGMENT ON JULY 16, 2015, PEOPLE v JACKSON, No. 09-003770-01 (WAYNE CTN4. CIR. CT. JUL. 16, 2015). THE MOTION WAS RETURNED TO JACKSON BY ORDER DATE JANUARY 21, 2016 BECAUSE IT EXCEEDED THE PAGE LIMIT. JACKSON WAS ENCOURAGED TO RE SUBMIT THE MOTION AFTER REDACTING HIS ISSUES AND ARGUMENTS TO A MORE MANAGEABLE LENGTH.

JACKSON RESUBMITTED THE MOTION ON MAY 24, 2016. THIS MOTION FOR RELIEF FROM JUDGMENT WAS DENIED BY THE TRIAL JUDGE ON NOVEMBER 21, 2016, IN AN ORDER THAT CHARACTERIZED THE MOTION AS SUCCESSIVE AND DENIED RELIEF UNDER MICH. CT. R. 6.502(G). JACKSON TIMELY FILED A MOTION FOR RECONSIDERATION ON DECEMBER 9, 2016, PEOPLE v JACKSON, No. 09-003770-01 (WAYNE CTN4. CIR. CT. DEC. 9, 2016), WHICH HAS NEVER BEEN RULED ON.

ON JUNE 15, 2018, THE U.S. DISTRICT COURT ISSUED AN (ECF No. 31) OPINION AND ORDER DIRECTING THE CLERK TO REOPEN THE CASE. ON SEPTEMBER 10, 2019, THE MICHIGAN SUPREME COURT REMANDED THE CASE OF PEOPLE v JACKSON, SUPRA, TO THE STATE TRIAL COURT FOR RECONSIDERATION OF WHETHER JACKSON'S MAY 24, 2016 MOTION FOR RELIEF FROM JUDGMENT IS A SUCCESSIVE MOTION, AS THE TRIAL JUDGE STATES IN THE NOVEMBER 21, 2016 ORDER DENYING RELIEF FROM JUDGMENT PURSUANT TO MICH. CT. R. 6.502(G). PEOPLE v. JACKSON, No. 159436 (MICH. SEPT. 10, 2019).

ON SEPTEMBER 20, 2019, THE U.S. DISTRICT COURT ISSUED AN (ECF No. 84) OPINION AND ORDER, SUA SPONTE, HOLDING IN ABEYANCE JACKSON'S PETITION FOR WRIT OF HABEAS CORPUS AND ADMINISTRATIVELY CLOSED THE CASE.

ON DECEMBER 16, 2019 (ECF No. 95), THE U.S. DISTRICT COURT ENJOINS JACKSON FROM FILING ANY FURTHER MOTIONS OR PLEADINGS IN HIS HABEAS CASE WITHOUT ACCOMPANING SUCH WITH (1) AN APPLICATION FOR PERMISSION TO FILE THE PLEADING; AND (2) AN AFFIDAVIT DEMONSTRATING THAT HIS ALLEGATIONS HAVE MERIT AND THAT THEY ARE NOT A REPETITION OF HIS

PREVIOUS PLEADINGS OR MOTIONS.

ON JULY 29, 2020, JACKSON SUBMITTED A MOTION TO LIFT STAY; MOTION TO RESTART; AND SWORN PETITION FOR WRIT OF HABEAS CORPUS, TO THE U.S. DISTRICT COURT FOR FILING. THE CLERK NEVER FILED THE DOCUMENTS. SEE PRISONER EXPEDITED LEGAL MAIL FORMS (CSJ-31B) AND USPS TRACKING, ATTACHED AS EXHIBIT 1) THEREFORE, ON SEPTEMBER 21, 2020, JACKSON SUBMITTED HIS MOTION TO LIFT STAY; SWORN AMENDED HABEAS CORPUS PETITION; MOTION FOR PAUPER STATUS; FINANCIAL AFFIDAVIT; AND CERTIFICATE OF PRISONER ACCOUNT ACTIVITY, TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT FOR FILING.

ON SEPTEMBER 25, 2020, U.S. COURT OF APPEALS MAILED JACKSON NOTICE CONSTRUING HIS PLEADINGS AS A MOTION FOR PERMISSION TO FILE A SECOND OR SUCCESSIVE HABEAS APPLICATION PURSUANT TO 28 USC § 2244. (SEE 9/25/20 NOTICE, ATTACHED AS EXHIBIT 2) ON OCTOBER 14, 2020, THE STATE TRIAL COURT FOUND THAT THE STATE COURT ORDER ENTERED ON NOVEMBER 21, 2016 ERONEOUSLY FOUND THAT JACKSON'S MAY 24, 2016 MOTION WAS A SUCCESSIVE MOTION FOR RELIEF FROM JUDGMENT. PEOPLE v. JACKSON, No. 09-003770-O1 (WAYNE CTNY. CIR. CT. OCT. 14, 2020). JACKSON'S POST-CONVICTION PROCEEDINGS REMAIN IN THE STATE

TRIAL COURT.

ON OCTOBER 13, 2020, THE U.S. COURT OF APPEALS FILED JACKSON'S MOTION FOR CORRECTION OF THE RECORD. IN RE JACKSON No. 20-1932 (U.S. CT. APP. OCT. 13, 2020). ON APRIL 5, 2021, JACKSON FILED A PETITION FOR WRIT OF MANDAMUS TO COMPEL U.S. COURT OF APPEALS' CASE MANAGER TO PROPERLY IDENTIFY JACKSON'S HABEAS CORPUS PETITION AS SUCH. IN RE JACKSON, SUPRA, (U.S. CT. APP. OCT. 12, 2021). THE COURT OF APPEALS RESPONDED IN A LETTER DATED APRIL 26, 2021. (SEE 4/26/21 LETTER, ATTACHED AS EXHIBIT 3)

ON SEPTEMBER 01, 2021, THE U.S. COURT OF APPEALS ISSUED AN ORDER SUMMARILY DISMISSING JACKSON'S PETITION FOR RELIEF IN HABEAS CORPUS PURSUANT TO 28 USC § 2254, AND HIS MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS AND ALL HIS OTHER MOTIONS WERE DENIED AS MOOT. JACKSON'S PETITION FOR REHEARING WAS DENIED ON SEPTEMBER 28, 2022. (SEE 9/01/21 AND 9/28/22 ORDERS, ATTACHED AS EXHIBIT 4).

THIS PRO SE PETITION FOR WRIT OF CERTIORARI FOLLOWS.

THE REASON FOR GRANTING THE PETITION

I. CONSIDERING A PRISONER'S RIGHT TO BE FREE FROM WRONGFUL RESTRAINTS UPON THEIR LIBERTY, DOES 28 USCS § 2241 PROVIDE THE FEDERAL COURT OF APPEALS SUBSTITUTE JURISDICTION UNDER THE DUE PROCESS CLAUSE.

THE ISSUE IS OF IMPORTANCE TO THE FEDERAL JUDICIAL SYSTEM AND TO THE NATION. THE ISSUE INVOLVES THE FEDERAL CONSTITUTION AND STATUTORY LAW.

DISCUSSION

PRISONERS IN THIS COUNTRY WHO ARE IN CUSTODY UNDER A STATE COURT JUDGMENT MAY SEEK, IN PRO SE, A DETERMINATION FROM THE SUPREME COURT, A JUSTICE THEREOF, A CIRCUIT JUDGE, OR A DISTRICT COURT THAT THE CUSTODY VIOLATES THE CONSTITUTION LAWS, OR TREATIES OF THE UNITED STATES. 28 USCS § 2254 (1). INDIVIDUAL CIRCUIT JUDGES ALSO HAVE AUTHORITY TO GRANT A WRIT OF HABEAS CORPUS UNDER 28 USCS § 2241 (a).

THE WHOLE PURPOSE OF FEDERAL HABEAS REVIEW IS TO

ENSURE THAT INDIVIDUALS ARE NOT IMPRISONED IN VIOLATION OF THE UNITED STATES CONSTITUTION. SEE HERREIRA V. COLLINS, 506 US 390 (1993); BAREFOOT V. ESTELLE, 463 US 880 (1983). THE WRIT IS SUPPOSED TO BE A BULWARK AGAINST CONVICTIONS THAT VIOLATE "FUNDAMENTAL FAIRNESS." SEE WAINWRIGHT V. SYKES, 433 US 72, 97 (1977).

ARTICLE I, SECTION 9, OF THE UNITED STATES CONSTITUTION STATES, "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 I, SEC. 9. IN ACCORD, THE DUE PROCESS CLAUSE STATES IN PART, "NO PERSON SHALL ... BE DEPRIVED OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW. . . ." U.S. CONST. AMEND. V. IMPORTANT HERE IS THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION, WHICH STATES IN PART: "NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW." ID. AMEND. XIV.

EQUALLY IMPORTANT IS CONGRESS' INTENT TO PROHIBIT A "TOTAL EXHAUSTION" RULE REQUIRING DISTRICT COURTS TO DISMISS ANY HABEAS CORPUS PETITION THAT CONTAINS BOTH EXHAUSTED AND UNHAUSTED CLAIMS. FOR EXAMPLE, THE STATUTORY LANGUAGE FOR § 2254 IN PART PROVIDES: AN APPLICATION FOR A WRIT OF HABEAS CORPUS IN BEHALF OF A PERSON IN CUSTODY PURSUANT TO THE JUDGMENT OF THE STATE COURT SHALL NOT BE GRANTED UNLESS . . . THERE IS . . . THE

EXISTENCE OF CIRCUMSTANCES RENDERING SUCH PROCESS INEFFECTIVE
TO PROTECT THE RIGHTS OF THE PRISONER. 28 USC § 2254 (b)(1)(B)(i)

THE INORDINATE DELAY IN ADJUDICATING STATE COURT CLAIMS
CAN BE SUCH A CIRCUMSTANCE. SEE WORKMAN V. TATE, 957 F2D 1339,
1344 (6TH CIR. 1992). JACKSON FILED HIS MOTION FOR RELIEF FROM
JUDGMENT ON JULY 16, 2015. THUS, JACKSON'S PETITION FOR POST-
CONVICTION RELIEF HAS LANGUISHED IN THE STATE TRIAL COURT
FOR OVER SEVEN YEARS. THE STATE HAS NEVER BEEN REQUIRED TO
JUSTIFY THE PROTRACTED DELAY.

THEREFORE, SEEKING TO END HIS UNCONSTITUTIONAL RESTRAINT
UPON HIS LIBERTY, ON JULY 29, 2020 HE FILED A MOTION TO LIFT
STAY AND A HABEAS CORPUS PETITION RAISING ONLY PROPERLY EXHAUSTED
ISSUES. FOR UNKNOWN REASONS THE CLERK DID NOT FILE THE PAPERS.
THUS, SEEKING A FEDERAL JUDICIAL FORUM TO RAISE HIS FEDERAL
CONSTITUTIONAL CLAIMS FOR RELIEF FROM HIS WRONGFUL RESTRAINT, ON
SEPTEMBER 21, 2020, JACKSON, IN PRO SE, SUBMITTED HIS COMPLETELY
EXHAUSTED FEDERAL CLAIMS TO THE U.S. COURT OF APPEALS COURT FOR
THE SIXTH CIRCUIT. BECAUSE THE "BETTER AND PREFERRED PRACTICE"
FOR HABEAS PETITIONS TO BE PRESENTED INITIALLY TO THE DISTRICT
COURT IS PRESENTLY CONTINUING TO EXACERBATE THE INORDINATE
DELAY IN ADJUDICATING JACKSON'S EXHAUSTED FEDERAL CLAIMS.

INDEED, JACKSON'S PETITION FOR HABEAS CORPUS RELIEF HAS

LANGUISHED IN THE FEDERAL DISTRICT COURT SINCE "2015." THE U.S. DISTRICT COURT CAN POINT ONLY TO THE TOTAL EXHAUSTION RULE (ECF Nos. 84, PAGEID. 6929 - 6931; 86, PAGEID. 6942; 88, PAGEID. NOT PROVIDED BY COURT; 95, PAGEID. 7024; 100, PAGEID. 7060, 7061.)

AS THE REASONS FOR THE INORDINATE DELAY, NEVERTHELESS, AS IN WORKMAN, 957 F2D AT 1343, WHEN THE STATE ANSWERED JACKSON HABEAS PETITION, IT DID NOT INFORM THE U.S. DISTRICT COURT THAT JACKSON HAD NOT EXHAUSTED HIS STATE REMEDIES; RATHER, THE STATE SOUGHT TO CHALLENGE JACKSON'S PETITION ON ITS MERITS. (ECF No. 61, PAGEID. 6513, 6526 - 6610)

CLEARLY, THE PROTRACTED STAY OF HABEAS PROCEEDINGS HAS RISEN TO A DUE PROCESS VIOLATION, HENCE, IT BECOMES IMPORTANT FOR THE FEDERAL JUDICIAL SYSTEM AND ^{TO} THE NATION THAT THIS COURT DETERMINE, UNDER CIRCUMSTANCES SHOWN HERE, THE COMBINED EFFECT OF 28 USC § 2241(a) AND 28 USC § 2254(a), AND THE FEDERAL CONSTITUTION GRANTS CIRCUIT JUDGES THE AUTHORITY TO GRANT A WITI OF HABEAS CORPUS PETITION CONTAINING ONLY EXHAUSTED FEDERAL CLAIMS WHEN A FEDERAL DISTRICT COURT REFUSES TO FILE SUCH. SEE PICARD V. CONNOR, 404 US 270, 275 (1971) FOR GUIDANCE.

IN JACKSON CASE, THE U.S. DISTRICT COURT HAS SHOWN

THAT IT IS NOT INTERESTED IN THE HISTORICAL CORE OF THE WRIT OF HABEAS CORPUS AND ITS MEANS OF REVIEWING THE LEGALITY OF WRONGFUL RESTRAINTS UPON PRO SE PRISONERS' LIBERTY.

AS RECENTLY AS MARCH 18, 2022, THE U.S. DISTRICT COURT CONTINUES TO REFUSE TO LIFT ITS UNCONSTITUTIONAL STAY. (ECF NO. 122, PAGEID. 7235-7236.)

RELIEF

FOR ALL OF THE FOREGOING REASONS, THIS COURT SHOULD REVIEW AND DECIDED THIS IMPORTANT PRO SE FEDERAL QUESTION BECAUSE OTHERWISE FEDERAL DISTRICT COURTS WILL BEGAN STAYING HABEAS PROCEEDING UNTIL PRISONER PETITIONERS COMPLETE THEIR STATE COURT UNCONSTITUTIONAL SENTENCE; OR THIS COURT SHOULD APPOINT JACKSON COUNSEL WHOM CAN EXPLAIN THE IMPORTANT QUESTION IN A MORE UNDERSTANDABLE MANNER.

RESPECTFULLY SUBMITTED,

DATED: OCTOBER 25, 2022

S/ DOUGLAS CORNELL JACKSON
IN PRO SE
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