

No. 22-6116

Supreme Court, U.S.
FILED

OCT 04 2022

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

In Forma Pauperis

Edmund L. Fields — PETITIONER
(Your Name)

VS.

Warden Fredeane Artis — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Sixth Circuit Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Edmund Fields #487029 (In Pro Se)
(Your Name)

Thumb Corr. Fac.; 3225 John Conley Dr.
(Address)

Lapeer, Michigan 48446
(City, State, Zip Code)

(Phone Number)

ORIGINAL

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

SHOULD THE COMPLAINANT BE DENIED ACCESS TO THE GREAT WRIT BECAUSE OF JUDICIAL MAIFEASANCE?

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

Fields v. Cheeks, 2022 U.S. App. LEXIS 22004 (6th Cir. Aug. 9, 2022)

Fields v. Bergh, No. 22-1354 (6th Cir. June 16, 2022)

Fields v. Bergh, No. 2:12-CV-12658-DPH-MRM (E.D. Mich. May 23, 2022)

Fields v. Cheeks, No. 22-1354 (6th Cir. May 13, 2022)

Fields v. Bergh, 2022 U.S. Dist. LEXIS 80949 (E.D. Mich. May 4, 2022)

Fields v. Bergh, 2022 U.S. Dist LEXIS 21967 (E.D. Mich. Feb. 3 2022)

Fields v. Bergh, No 15-1097 (6th Cir. Nov. 17, 2015)

Fields v. Bergh, No. 2:12-CV-12658, 2015 WL 224755 (E.D. Mich. Jan. 15, 2015)

People v. Fields, 812 N.W.2d 732 (Mich. 2012)

People v. Fields, 740 N.W.2d 264 (Mich. 2007)

People v. Fields, 266738, 2007 WL 1712619 (Mich. App. June 14, 2007)

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APPENDIX B	Fields v Bergh, No. 2:12-CV-12658 (E.D. Mich. May 23, 2022) Fields v Bergh, 2022 U.S. Dist. LEXIS 80949 (ED Mich May 4, 2022)
APPENDIX C	Fields v Cheeks 2022 U.S. App. LEXIS 22004 (6th Cir. Aug 9, 2022)
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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 A 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☒ is unpublished.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 B 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 June 16, 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: August 9, 2022, and a copy of the order denying rehearing appears at Appendix G.

☐ 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

U.S.CA. 1, 5, and 14

Fed.R.App.P. 4(a)(6)(B)

Fed.R.App.P 4(a)(5)

Fed.R.Civ.P. 77(d)

Fed.R.Civ.P. 5(b)(2)(C)

Fed.R.Civ.P. 5(b)(1)

STATEMENT OF THE CASE

1) Complainant Edmund Fields, seeks a writ of certiorari for review of the Sixth Circuit Court of Appeals' June 16, 2022 and August 9, 2022 orders dismissing his appeal, in light of U.S. district court judge Denise Page-Hood treating the Complainant in a demonstrable egregious and hostile manner, in the case before Judge Denise Page-Hood's court (Fields v. Bergh, Civil Case No. 2:12-cv-12658) and the district court's repeated strategical failure to provide the Complainant proper notice of its rulings in order to procedurally bar the Complainant from executing a timely appeal. A complaint was filed with the Office of the Circuit Executive regarding this matter. (Complaint No. 06-22-90053).

Categories:

Para 2-5: Case History

Para 6-7: What is the district court trying to Conceal?

Para 8-20: Judicial Misconduct (Obstruction of Justice)

2) During the Complainant's state and federal proceedings he presented a claim of actual innocence predicated on the testimonial affidavit evidence of new res gestes witnesses Dominic Roberts (Appendix D) and Travis Verser (Appendix D).

3) However, contrary to U.S. Supreme Court precedence promulgated in Schlup v. Delo, 513 U.S. 298, 324, 327-28 (1995), Judge Denise Page-Hood failed to address the evidence proffered by Roberts and Verser in denying Fields' habeas action. See Fields v. Bergh, 2015 U.S. Dist. LEXIS 4781; 2015 WL 224755 (E.D. Mich. Jan. 2015).

4) In 2020 Fields filed a complaint against special assistant attorney general William Worden (who worked the Complainant's case from 2009 till Feb. 3, 2016) for not disclosing to Judge Page-Hood that his office had been in possession of Verser and Roberts' affidavit evidence since 2009. (A.G.C. File No. 21-1670).

5) In his answer, Worden, admitted that the trial court was made of aware

of Verser and Roberts' affidavit evidence back in 2010 by Fields and his attorney (Page 8 of Worden's Answer to A.G.C. Complaint, File No. 21-1670).

6) To redress the district court's failure of overlooking the affidavit evidence, or its clerk's failure to record for the appellate record the court's findings in its 2015 opinion, the Complainant, in 2021, filed a Fed.R.Civ.P. 60(b) and 60(d) motion and attached Worden's answer to it. Seeing that Worden dropped the ball and admitted knowledge of the affidavit evidence, district court judge Denise Page-Hood **finally** admitted that the affidavit evidence of Roberts and Verser was included in the initial state court record.

7) But rather than own up to her mistake, judge Page-Hood, in her February 3, 2022 Rule 60 order, defrauded the Sixth Circuit Court of Appeals by asserting that she did address the affidavit evidence in her January 15, 2015 opinion, when in actuality her 2015 opinion (existing as prima facie evidence) is devoid of the court addressing, either directly or indirectly, even an iota of Roberts and Verser's affidavit evidence, making her response to the Rule 60 motion(s) disingenuous. See Fields v. Paragh, 2022 U.S. Dist. LEXIS 21967; 2022 WL 33277 (E.D. Mich. Feb. 3, 2022).

8) To circumvent her unethical actions from reaching the jurisdiction of the Sixth Circuit Court of Appeals, judge Page-Hood (who accepted and filed the Complainant's 2021 pro se pleadings) failed to provide him notice of her February 3, 2022 ruling, deliberately implementing a procedural bar as a tool to deny him his right to file a notice of appeal within the statutory time for filing appeals; stripping him of any procedural vehicle to ever have the affidavit evidence addressed in a federal forum on the merits.

9) On March 23, 2022 (51 days after the court's order was entered) the Complainant discovered, via prison library database research, the district

court's February 3, 2022 ruling.

10) After reiterating that he's a pro se litigant, and providing the court documentation from the MDOC verifying that the prison never received the district court's February 3, 2022 order, judge Page-Hood still denied the Complainant's motion for an extension of time to file a notice of appeal and motion for rehearing. The court failed to provide him notice of this ruling as well. (Fields v. Berch, 2022 U.S. Dist. LEXIS 80949 (May 4, 2022)). The court then stated that it sent the orders to the Complainant's attorney only after the Sixth Circuit sought clarification as to why he did not receive his orders. (Fields v. Berch, No. 2:12-cv-12658 (May 23, 2022)). See Footnotes (1) and (2).

11) However, as stated Fields is a pro se litigant. See (Appendix E: Complainant's Affidavit). Following the denial of his habeas action in 2015, attorney Phillip Comorski represented the Complainant in the Sixth Circuit Court of Appeals and resigned at the close of that proceeding (Fields v. Berch, No. 15-1097 (6th Cir. Feb. 3, 2016)).

12) Therefore, in acknowledgment of his pro se status, the district court accepted and filed his Rule 60 pleadings; as did the Sixth Circuit Court of Appeals. If at any point the district court or Sixth Circuit believed that the Complainant was represented by counsel, the district court and Sixth Circuit would have been barred from accepting and filing his pleadings, because litigants represented by counsel cannot file pro se pleadings. Such motions are required to be filed through counsel.

13) Seeing that Fields and Comorski's attorney-client relationship ended at the close of his Sixth Circuit proceedings in 2016, the Sixth Circuit, pursuant to Fed.R.Civ.P. 5(b)(2)(C), served each of its 2022 orders on the Complainant at his prison address:

- * May 13, 2022: Chief Judge Cole's remand to district court,
- * June 16, 2022: Judges Richard Suhrheinich, Ronald Gilman, and Raymond Kethledge's order dismissing Complainant's appeal,
- * June 16, 2022: Confidential correspondence from the Circuit Executive, and
- * August 9, 2022: Judges Richard Suhrheinich, Ronald Gilman, and Raymond Kethledge's order denying Complainant's petition for rehearing en banc.

Note: Judges Richard Griffin and Joan Larsen recused themselves from participating in the court's August 9, 2022 ruling.

14) If the Sixth Circuit, who affirmed judge Page-Hood's actions, honestly believed that Phillip Comorski was the Complainant's attorney during his 2021-2022 Rule 60 proceedings, then Sixth Circuit Clerk Deborah S. Hunt would be in violation of Fed.R.Civ.P. 5(b)(1) for not servicing the abovementioned court orders on Fields' "so-called" attorney.

15) What's demonstrably egregious in this entire debacle, is judge Page-Hood's antagonistic attitude in holding the Complainant liable for the district court's own clerical misprision.

16) Judge Page-Hood failed to take into consideration that as a prisoner, the Complainant relies heavily on being timely served in order to timely respond, ergo, the reason for the mailbox rule. Moreover, in the Complainant's case, the district court never served an order, so as to allow him to be compliant with the mandates set forth within the Federal Rules of Civil Procedure. Judge Denise Page-Hood instead, in her May 4, 2022 order, scolded the Complainant (a pro se litigant which the court was aware of) for taking 16 days to respond to the court's February 3, 2022 order that was never served upon him by the district court.

17) In the court's order denying the Complainant's motion seeking an extension of time, judge Page-Hood scolded the Complainant as follows:

"Furthermore, while the Petitioner seeks an extension of time because he did not receive notice of the Court's February 3, 2022 order denying his Rule 60 motions, he admits that he learned of the Court's decision on March 23, 2022,

yet he did not date his current motions until April 8, 2022 - 16 days later. Consequently an extension of time is not warranted and his motion for rehearing is untimely." Fields v. Beroh, 2022 U.S. Dist. LEXIS 80949 (May 4, 2022).

18) Judge Page-Hood chose to disregard: (a) the Complainant's affidavit (**Appendix E**), (b) its acknowledgement the court never provided him notice of its February 3, 2022 order, and (c) the fact that the Federal Rules of Appellate Procedure, which the court referenced, only come into effect when a "party is properly notified of judgement".

19) The level of professionalism established here is unprecedented. It's unethical and a direct violation of the Complainant's United States 5th and 14th Amendment right to Due Process, notwithstanding Federal Rules of Professional Conduct, for a court to fail to provide a party proceeding in pro se proper notice of its ruling, and expect for the Complainant to eventually discover the existence of the court's order in a timely manner on his own accord.

20) The issue before the Court today is more than about a clerical misprison by the clerk for failing to notify the Complainant that a judgment was entered, and as a corollary caused him not to file a notice of appeal in a timely manner. But in fact, the issue before the Court today involves an intentional act by a federal actor to cover up a wrong doing and prevent judicial review, via a strategic method implemented by the district court to procedurally bar the Complainant from executing a timely appeal while purporting its actions to be legitimate.

Footnote (1)

Although Comorski is not the Complainant's attorney, Fields, on August 26, 2022 contacted Assistant Deputy Warden (A.D.W) France and MDOC mailroom staff and asked: "has the MDOC received any mail, on my behalf, from attorney Phillip Comorski (P46413) during the month of February 2022, May 2022, or at any time during the year of 2022?"

On August 29, 2022 both A.D.W. France and the mailroom replied: "I looked through all the logs through August 2022. There is no mail from Comorski for

you."

Footnote (2)

On August 30, 2022 Fields mailed to the district court a \$5 check for the purchase of a copy of the court's February 3, 2022 electronic records verifying that the court actually served its order on Comorski.

/s/

Edmund L. Fields #487029

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REASONS FOR GRANTING THE PETITION

Relevant Court Rules: F.R.A.P. 4(a)(6) The district court may reopen the time to file an appeal for a period of 14 days after the date when its order to reopen is entered, but only if the following conditions are satisfied: (A) the court finds that the moving party did not receive notice under Federal Rules of Civil Procedure 77(d) of the entry of the judgment or order sought to be appealed within 21 days after the entry; (B) the motion is filed within 180 days after the judgment or order is entered or within 14 days after the moving party receive notice under Federal Rules of Civil Procedure 77(d) of the entry, whichever is earlier, and (C) the court finds that no party would be prejudiced.

Relevant Case Law: Tanner v. Yukins, 776 F.3d 434 (2015) "The new provision thus established "an outer time limit of 180 days for a party who fails to receive notice of entry of a judgment to seek additional time to appeal."

1) In acknowledgment of Fields 2021 pro se status, the district court accepted and filed his Rule 60 pleadings; as did the Sixth Circuit Court of Appeals. If at any point the district court or Sixth Circuit believed that the Complainant was represented by counsel, the district court and Sixth Circuit would have been barred from accepting and filing his pleadings, because litigants represented by counsel cannot file pro se pleadings. Such motions are required to be filed through counsel.

2) Seeing that Fields and Comorski's attorney-client relationship ended at the close of his Sixth Circuit proceedings in 2016, the Sixth Circuit, pursuant to Fed.R.Civ.P. 5(b)(2)(C), served each of its 2022 orders on the Complainant at his prison address:

* May 13, 2022: Chief Judge Cole's remand to district court,

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Note: Judges Richard Griffin and Joan Larsen recused themselves from participating in the court's August 9, 2022 ruling.

3) If the Sixth Circuit, who affirmed judge Page-Hood's actions, honestly believed that Phillip Comorski was the Complainant's attorney during his

2021-2022 Rule 60 proceedings, then Sixth Circuit Clerk Deborah S. Hunt would be in violation of Fed.R.Civ.P. 5(b)(1) for not servicing the abovementioned court orders on Fields' "so-called" attorney.

4) As evidenced by the record, the district court (and Sixth Circuit Court of Appeals) turned a blind eye to a clerical misprision of the district court sending its February 3, 2022 order to the Complainant's former attorney, and concluding that because Fields found out at the time of his deadline (via prison library database research) that a judgment was reached, thus, a proper notice of judgement was not necessary and the district court had no obligation to grant relief.

5) In support of the district court's decision to suspend Mr. Fields' access to the Great Writ, the Sixth Circuit Court of Appeals opted to rely on the congressionally enacted statutory limitations on the time of appeals. Howles, 551 U.S. at 210, limitations that the U.S. Supreme Court has recognized as "mandatory and jurisdictional" id at 209.

6) In Bounds v. Smith, 430 U.S. 817, 97 S.Ct. 1491, L.Ed.2d 72 (1997) however, the U.S. Supreme Court held that prison inmates possess a fundamental constitutional right to access to the courts. Id at 828. Thus, if the Sixth Circuit Court of Appeals were correct, this constitutional right would be meaningless: appellate courts would be required to acquiesce in the unconstitutional conduct of district court judges who delay an inmates ability to file an appeal until its too late to ~~me~~ ^{meet} Fed.R.App.P. Rule 4 deadlines. Just as in this extreme case as an example, whereas a federal actor sought to oppress a pro se litigant from obtaining equitable relief.

7) The Federal Rules of Appellate Procedure establish the deadlines that govern filings in federal court, as established by Fed.R.App.P. 1(a)(1). When a party is properly notified of a judgment Rule 4(a)(1)(A) provides a party

30 days to appeal. Pursuant to Rule 4(a)(5), a movant may request an extension of up to 30 days upon a showing of "excusable neglect or good cause," Fed.R.App.P. 4(a)(5)(A)(ii), but must do so within 30 days following the initial 30 day appeal period. Fed.R.App.P. 4(a)(5)(A)(i).

8) The Complainant avers, that the Sixth Circuit Court of Appeals in Tanner v. Yukins, 776 F.3d 434 (2015), emphasized: "when a party is properly notified of judgment," thus, the Sixth Circuit's utilization of the phrase "properly notified" more than broadly indicates that the Federal Rules of Appellate procedure only come into when a "party is properly notified of a judgment".

9) This distinction arises from the recent history of Fed.R.Civ.P. 4(a)(5). Until 1991, Rule 4(a)(5) was the only provision in the Rules of Appellate Procedure that provided a means for seeking an extension of the appeal period on any basis. See In re Stein, 197 F.3d 421, 424 (9th Cir. 1999) In re Cosmopolitan Aviation Corp., 763 F.3d 507, 514 (2nd Cir. 1985); Silva v. Lavarie, 594 F.2d 892, 893 (1st Cir. 1979).

10) The drafters of the Rules of Appellate Procedure, however, were aware of the long-standing "problem of litigants who fail to receive notice of entry of judgment before the appeal time runs out," and realized that Rule 4(a)(5) "would not aid a litigant who first learned of the entry of judgement more than 30 days after the original appeal time ran out." Wright & Miller, 16A Fed Prac. & Proc. Juris. § 3950.6. The committee thus amended Rule 4 in 1991 to address "the plight of this litigant" by adding subdivision (6) to Rule 4(a). *Id.* This provision was not the one at issue in Bowles.

11) Subdivision (6) of Rule 4(a) provides an avenue for relaxing the time period for appeal in cases in which the litigant failed to receive notice of entry of judgment.

1963, 1964 (1963-1964)

[illegible]

7-12-1954

12) The Complainant has done everything imaginable in order to remain in compliance with the Federal Rules of Civil and Appellate Procedure, but it's dangerously obvious that the U.S. District Court and Ninth Circuit Court of Appeals have violated their own rules, procedures, and even law in a flagrant attempt to deny him access to the Grand Jury.

The Complainant asks this Court to intervene, because there is no way possible that the same body that the Complainant filed complaint against should be the same ones to play prosecutor, judge, jury, and executioner over his appellate fate. There has to be a higher hand of authority that has jurisdiction to administer justice in the matter before the Court today.

/s/ Edmund L. Fields
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CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Edmund L. Fields

Date:

October 3, 2022