

8CVCAP

## IN THE IOWA DISTRICT COURT IN AND FOR LEE COUNTY

CHAD MICHAEL VICE,

Plaintiff

08562 CVEQ007059

STACY WEBER  
JOHN CANIDA  
LEE COUNTY CORRECTIONAL MEDICAL  
PROVIDER

**DISMISSAL WITHOUT PREJUDICE**

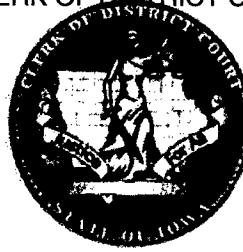
Defendants

Plaintiff has not served the defendants with legal process within 90 days of the filing of this suit, as required by Iowa Rule Civ. Pro. 1.302(5). The clerk signed an original notice for the Plaintiff in March. Plaintiff has failed to pay the filing fee and owes about \$73.00.

This case has been lingering in various stages of incompleteness for months. This case is one of several filed by Mr. Vice. All of the others have been dismissed for failing to timely serve original notice or failing to pay the filing fee. See Orders filed in CVEQ006949, CVEQ006950, CVEQ007022, CVEQ007055.

For the reasons stated above, this case is DISMISSED WITHOUT PREJUDICE.

Appendix - A



## State of Iowa Courts

**Case Number**

CVEQ007059

**Type:****Case Title**CHAD VICE VS LEE CO SHERIFF ET AL  
DISMISSED PER COURT

So Ordered

A handwritten signature in black ink, appearing to read "Michael J. Schilling".

---

Michael J. Schilling, District Court Judge,  
Eighth Judicial District of Iowa

Electronically signed on 2022-05-03 15:33:26

A handwritten note at the bottom of the page that reads "Appendix - A".

8CVCAP

IN THE IOWA DISTRICT COURT IN AND FOR LEE COUNTY

---

CHAD MICHAEL VICE,

Plaintiff

08562 CVEQ007059

STACY WEBER  
JOHN CANIDA  
LEE COUNTY CORRECTIONAL MEDICAL  
PROVIDER

Defendants

**ORDER DENYING MOTION TO RECONSIDER**

Plaintiff's motion to reconsider filed May 23 is DENIED. It is lacking in merit because it is not timely and because the substance of the motion is legally and factually inaccurate.

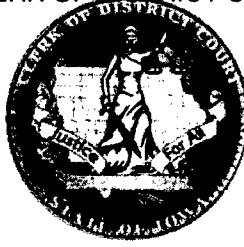
IT IS SO ORDERED.

Appendix - B

E-FILED

CVEQ007059 - 2022 AUG 01 03:20 PM  
CLERK OF DISTRICT COURT

LEE NORTH  
Page 2 of 2



State of Iowa Courts

**Case Number**

CVEQ007059

**Type:**

**Case Title**

CHAD VICE VS LEE CO SHERIFF ET AL  
OTHER ORDER

So Ordered

A handwritten signature in black ink, appearing to read "Michael J. Schilling".

Michael J. Schilling, District Court Judge,  
Eighth Judicial District of Iowa

Electronically signed on 2022-08-01 15:20:17

Appendix X-B

## IN THE SUPREME COURT OF IOWA

No. 22-1438

Lee (North) County No. CVEQ007059

## ORDER

**CHAD MICHAEL VICE,  
Plaintiff-Appellant,**

vs.

**LEE COUNTY CORRECTIONAL MEDICAL  
PROVIDER, STACY WEBER AND JOHN  
CANIDA**

---

This matter comes before the court, Waterman, Mansfield, and McDermott, JJ., on its own motion regarding a jurisdictional issue. Also before the court are appellant's petition to proceed in forma pauperis pursuant to Iowa Rule of Appellate Procedure 6.703(a)(4) and Iowa Code section 610.1, his motion for a declaratory judgment, and his motion for an extension of time to file a petition for writ of certiorari.

A review of the district court's docket shows: (1) on May 3, 2022, the court noted appellant had failed to serve the original notice and \$73 remained to be paid on the filing fee, and therefore dismissed the matter without prejudice; and (2) on May 23, 2022, appellant filed a motion for reconsideration, which the court denied on August 1, 2022. Appellant filed a notice of appeal on August 25, 2022. A motion filed pursuant to Iowa Rule of Civil Procedure 1.904(2) must be filed within the time allowed for filing a motion for a new trial, that is, fifteen days from the date of the challenged order, Iowa R. Civ. P. 1.1007. Appellant filed his motion for reconsideration 20 days after the decision he sought to challenge. In his petition for declaratory judgment appellant asks the court to apply equitable tolling or the mailbox rule, or both, and find his motion for reconsideration was timely filed. Only a timely motion for reconsideration will toll the running of the period within which an appeal must be taken. *Quallay v. Chrysler Credit Corp.*, 261 N.W.2d 466, 471 (Iowa 1978). Further, a notice of appeal must be filed within 30 days of the final order

or judgment. Iowa R. App. P. 6.101(1)(b). The court finds appellant did not file a notice of appeal within 30 days of the court's May 3, 2022 order of dismissal. Accordingly, the court finds it lacks jurisdiction over the appeal.

Upon consideration, the motion for declaratory judgment and the motion for an extension of time are denied. The appeal is dismissed. The motion to proceed in forma pauperis is denied as moot.

Copies to:

Chad Michael Vice  
#1065118  
Iowa State Penitentiary  
P.O. Box 316  
Fort Madison, IA 52627

John Canida

Lee County Correctional Medical Provider

Stacy Weber  
c/o Lee County Sheriff  
2530 255th St.  
Montrose, IA 52639



IOWA APPELLATE COURTS

State of Iowa Courts

**Case Number**  
22-1438

**Case Title**  
Vice v. Lee Co Sheriff Et Al

So Ordered

Edward Mansfield, Justice

Electronically signed on 2022-09-26 07:14:34

## IN THE SUPREME COURT OF IOWA

No. 22-1438

Lee (North) County No. CVEQ007059

## ORDER

**CHAD MICHAEL VICE,  
Plaintiff-Appellant,**

**vs.**

**LEE COUNTY CORRECTIONAL MEDICAL  
PROVIDER, STACY WEBER AND JOHN  
CANIDA**

---

This matter comes before the court upon appellant's petition for writ of certiorari and motion to proceed in forma pauperis.

On September 26, 2022, the court dismissed this appeal for lack of jurisdiction, and denied appellant's motion to proceed in forma pauperis as moot. The court treats the petition for writ of certiorari as a motion for reconsideration, and finds the motion raises no issue affecting that determination.

Upon consideration, the motion is denied. The motion to proceed in forma pauperis is denied.

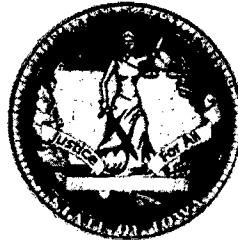
Copies to:

Chad Michael Vice  
#1065118  
Iowa State Penitentiary  
P.O. Box 316  
Fort Madison, IA 52627

John Canida

Lee County Correctional Medical Provider

Stacy Weber  
c/o Lee County Sheriff  
2530 255th St.  
Montrose, IA 52639



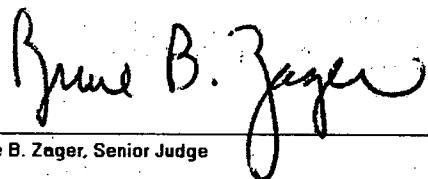
IOWA APPELLATE COURTS

State of Iowa Courts

**Case Number**  
22-1438

**Case Title**  
Vice v. Lee Co Sheriff Et Al

So Ordered



**Bruce B. Zager, Senior Judge**

Electronically signed on 2022-09-28 18:33:29

## IN THE SUPREME COURT OF IOWA

No. 22-1438

Lee (North) County No. CVEQ007059

## ORDER

**CHAD MICHAEL VICE,  
Plaintiff-Appellant,**

vs.

**LEE COUNTY CORRECTIONAL MEDICAL  
PROVIDER, STACY WEBER AND JOHN  
CANIDA**

---

This matter comes before the court upon appellant's motion for an extension of time and petition for writ of mandamus.

On September 26, 2022, the court dismissed this appeal for lack of jurisdiction, and denied appellant's motion to proceed in forma pauperis as moot. On September 29, 2022, the court treated appellant's September 26, 2022 filings as a motion for reconsideration, denied the motion because it raised no issue affecting the order of dismissal, and again denied the motion to proceed in forma pauperis. The court finds appellant's most recent motion raises no issue that warrants reversal of the court's order to dismiss the appeal, and should otherwise be denied for lack of jurisdiction.

Upon consideration, the motion for an extension of time, and the petition for writ of mandamus, are denied. The clerk shall issue procedendo.

Copies to:

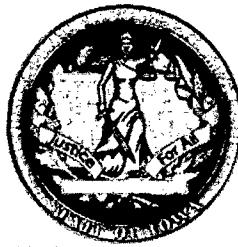
Chad Michael Vice  
#1065118  
Iowa State Penitentiary  
P.O. Box 316  
Fort Madison, IA 52627

John Canida

Lee County Correctional Medical Provider

Stacy Weber  
c/o Lee County Sheriff

2530 255th St.  
Montrose, IA 52639



IOWA APPELLATE COURTS

State of Iowa Courts

**Case Number**  
22-1438

**Case Title**  
Vice v. Lee Co Sheriff Et Al

So Ordered

A handwritten signature in black ink that reads "Bruce B. Zager".

Bruce B. Zager, Senior Judge

Electronically signed on 2022-10-25 14:49:46

IN THE SUPREME COURT OF IOWA

No. 22-1438

Lee (North) County No. CVEQ007059

**PROCEDENDO**

**CHAD MICHAEL VICE,  
Plaintiff-Appellant,**

vs.

**LEE COUNTY CORRECTIONAL MEDICAL  
PROVIDER, STACY WEBER AND JOHN  
CANIDA**

---

To the Iowa District Court for the County of Lee (North) :

Whereas, there was an appeal from the district court in the above-captioned case to the supreme court. The appeal is now concluded.

Therefore, you are hereby directed to proceed with diligence and according to the law in the same manner as if there had been no appeal.

In witness whereof, I have hereunto set my hand and affixed the seal of the supreme court.

Copies to:

Chad Michael Vice  
#1065118  
Iowa State Penitentiary  
P.O. Box 316  
Fort Madison, IA 52627

Stacy Weber  
C/o Lee County Sheriff  
2530 255th Street  
Montrose, IA 52639

Clerk Of District Court



IOWA APPELLATE COURTS

State of Iowa Courts

**Case Number**  
22-1438

**Case Title**  
Vice v. Lee Co Sheriff Et Al

So Ordered

Donna M. Humpal, Clerk

Electronically signed on 2022-10-26 08:00:29

**United States Court of Appeals**

***For The Eighth Circuit***

Thomas F. Eagleton U.S. Courthouse  
111 South 10th Street, Room 24.329

**St. Louis, Missouri 63102**

**Michael E. Gans**  
*Clerk of Court*

**VOICE (314) 244-2400**  
**FAX (314) 244-2780**  
**[www.ca8.uscourts.gov](http://www.ca8.uscourts.gov)**

February 02, 2022

Mr. Chad M. Vice  
IOWA DEPARTMENT OF CORRECTIONS  
1065118  
406 N. High Street  
P.O. Box 10  
Anamosa, IA 52205-0010

RE: 21-3907 Chad Vice v. City of Fort Madison, et al

Dear Mr. Vice:

Enclosed is a copy of the dispositive order in the referenced appeal. Please note that FRAP 40 of the Federal Rules of Appellate Procedure requires any petition for rehearing to be filed within 14 days after entry of judgment. Counsel-filed petitions must be filed electronically in CM/ECF. Paper copies are not required. This court strictly enforces the 14 day period. **No grace period for mailing is granted** for pro-se-filed petitions. A petition for rehearing or a motion for an extension of time must be filed with the Clerk's office within the 14 day period.

Michael E. Gans  
Clerk of Court

NDG

Enclosure(s)

cc: Mr. Clerk, U.S. District Court, Southern Iowa

District Court/Agency Case Number(s): 4:21-cv-00354-RGE

Appendix- G

UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT  
OFFICE OF THE CLERK  
ST. LOUIS, MO 63102

03c-08

Mr. Chad M. Vice  
#1065118  
IOWA DEPARTMENT OF CORRECTIONS  
406 N. High Street  
P.O. Box 10  
Anamosa, IA 52205-0010

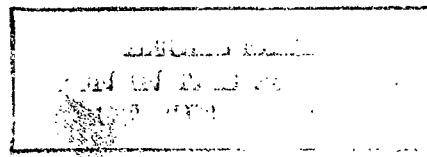
5220580010 8050



US POSTAGE<sup>TM</sup> PITNEY BOWES

ZIP 63102 \$ 000.53<sup>0</sup>  
02 4W  
0000379099 FEB. 07. 2022

ASP MAILROOM  
Received  
FEB 14 2022



## Appendix - G

## IN THE SUPREME COURT OF IOWA

No. 21-1835

Lee (North) County No. ESPR012302

## ORDER

IN THE MATTER OF THE ESTATE  
OF MARGARET J. VICE, Deceased.**CHAD MICHAEL VICE,**  
Appellant.

---

This matter comes before the court, Waterman, McDonald, and Oxley, JJ., upon its own motion as well as appellant's motions for waiver of the filing fee and the appointment of appellate counsel.

On November 23, 2021, appellant filed a notice of appeal seeking appellate review of the district court's September 1, 2021 declaratory judgment regarding the distribution of estate assets, and from all adverse rulings inhering therein. On December 6, 2021, he filed a petition for writ of certiorari challenging the district court's denial of his motion for reconsideration as untimely. A review of the district court's docket shows on October 4, 2021, the court denied appellant's motion to reconsider as untimely, and on November 2, 2021, the court entered an order closing the estate.

The court finds appellant is not seeking to appeal from the court's November 2, 2021 order closing the estate. In addition, the notice of appeal was filed 83 days after the court's September 1, 2021 declaratory judgment order, and 50 days following the court's denial of appellant's motion for reconsideration of the September 1, 2021 order. Orders or decrees in probate matters are final decrees as to parties having notice, Iowa Code § 633.36, and an appeal must be filed within 30 days after the entry of those order or decrees, Iowa R. App. P. 6.101(1)(b). In addition, the court's November 2, 2021 order did not "inhere" in the September 1, 2021 order because it came later, *see Jensen v. State*, 312 N.W.2d 581, 582-83 (Iowa 1981) (holding a denial of a motion to correct an illegal sentence and a denial of postconviction relief did not "inhere" in trial court's earlier judgment of sentence").

The court lacks jurisdiction over this appeal. *Doland v. Boone Cty.*, 376 N.W.2d 870, 876 (Iowa 1985).

A petition for writ of certiorari must be filed within 30 days of a challenged order. Iowa R. App. P. 6.107(1)(b). Even if the time is measured from the district court's last order, filed on November 2, 2021, appellant's December 6, 2021 petition for writ of certiorari was filed more than 30 days later, *see* Iowa R. App. P. 6.107(1)(b) (requiring petition to be filed within 30 days after the challenged order). Accordingly, the court finds the petition for writ of certiorari were not timely filed, and the court lacks jurisdiction to consider it. *Sergeant Bluff-Luton Sch. Dist. v. City Council of City of Sioux City*, 605 N.W.2d 294, 297 (Iowa 2000).

Upon consideration, the appeal is dismissed. The petition for writ of certiorari is denied. The application for the appointment of appellate counsel is denied as moot. The request to waive the filing fee is denied because it is not authorized pursuant to Iowa Code section 610A.1, and any request for a deferral is moot. The clerk shall assess the costs of this appeal in the bill of costs.

Copies to:

Chad Michael Vice  
#1065118  
Anamosa State Penitentiary  
406 N. High St.  
Anamosa, IA 52205

Gregory A. Johnson  
516 7th Street  
P.O. Box 405  
Ft. Madison, IA 52627



IOWA APPELLATE COURTS

State of Iowa Courts

**Case Number**  
21-1835

**Case Title**  
In re Estate of Vice

So Ordered

Dana L. Oxley, Justice

Electronically signed on 2022-01-01 07:13:32