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No. 22-7574

IN THE SUPREME COURT OF THE UNITED STATES

NAWAZ AHMED,  
Petitioner,

v.

Tim SHADP, Warden  
Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO  
THE UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT.

REPLY BRIEF OF PETITIONER

NAWAZ AHMED

A404-511, CCI

Pro se Petitioner

CHILLICOTHE CORRECTIONAL INSTITUTION

P.O. BOX 5500

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NOTE: Petitioner is in restricted cell for another week.

Received the Brief in Opposition on July 17, 2023  
without any postmark of date of mailing. So neither  
have means of prepare the Reply Brief on Computer or Typewriter  
and get a printed copy after 3 days, nor time for timely service.  
So submit hand written Reply Brief.

②

QUESTION PRESENTED. No. 1.

The Sixth Cir did not Lack Jurisdiction over Nawaz Ahmed's Appeal based upon timely Notice of Appeal appealing the both orders of the Dist. Court, especially the September 7, 2021 order as Clerk and dist. Court failed to prepare and serve the required separate document/judgment required by FRCP 58(a) as Court had denied all Relief (FRCP 58(b)(1)(C) and FRCP 58(c)(2)(B)) 150 days run from entry in the civil docket on September 7, 2021 and then within 30 days to file Notice of Appeal

QUESTION NO. 2

Six Cir. Ruled and denied the Petition For En Banc Rehearing in Appeal case 22-3039 on Feb. 3, 2023, thus case is not open but closed, ended when Petition for Rehearing was denied (see order in Petitioner's Appendix) and published as Nawaz Ahmed v. Shoop, 2023 U.S. App. LEXIS 2816 (6th Cir February 03, 2023).

Question No. 3

Not withstanding if Counsels never participated in Post judgement Pro se Motion (ECF No 198) Service via CM/ECF upon Counsels and then upon Pro se Ahmed did not include "FRCP 58(a) separate document" thus  $150 + 30 = 180$  days applied to file timely Notice of Appeal from September 7, 2021 denial of ALL Relief. Filed Notice of Appeal on January 12, 2022 within 150 days of entry as no separate document was ever prepared, never served.

③

1. REASONS TO DENY FALSE ASSERTIONS OF RESPONDENT

Respondent's experienced counsel dishonestly assert that Six Cir. did not deny all Relief by denying Petition For Rehearing En Banc, thus falsely ignoring the final orders (Part of Ahmed's Appendix) from which 90 days are counted to file the petition for certiorari Review and is published at Nawaz Ahmed v. Shoop, 2023 U.S. App. LEXIS 2816 (6th Cir. Feb. 3, 2023) dishonestly not included at Page IV of Brief in opposition and not discussed anywhere else, show an attempt to mislead the Court, despite agreeing with this Court's jurisdiction under 28 U.S.C. § 1254(1).

2- Respondent falsely rely and cite the inapplicable Fed. R. Civ. P. 54. When only applicable Fed. R. Civ. P. 58(a) and (b) (1)(c) Court denied all Relief and FRCP 58(c)(2) are not cited as Motion to strike the [duplicate] notice of Appeal (EcF. No. 198) is not included in motions under FRCP(a) (1) to (5), thus requiring a separate document. To set out the final order or Judgment under FRCP 58(a) was required and not waived by Petitioner.

(4)

3. Sixth Cir. order of Nov. 14, 2022 was a Suesponte erroneous conclusion of lack of Appeal jurisdiction as Panel and then en Banc Court failed fully follow the 28 U.S.C.S. § 2107(a) as to determine if and when the Entry of Judgment/order occurred when Court and Clerk of U.S. dist. Ct. utterly failed to prepare and serve (upon pro se petitioner or even serve upon the absent purported counsels) a separate document required by FRCP 58(a). Wherefore entry as per 28 U.S.C.S. § 2107(a) only occurred when 150 days allowed by FRCP 58(c)(2)(B) had expired to start the 30 days to file the Notice of Appeal.

Ahmed filed the timely notice of Appeal on January 12, 2023 from the final order filed on September 7, 2022 before the 150 days.

4. Dist. Court was required by 28 U.S.C. § 636(b)(3) to make a separate referral order to the magistrate ~~and~~ Judge to submit his R&R. in post judgment Prose Motion (ECF No. 198). No such order was ever

(5)

made and none is in record. Wherefore, magistrate sue sponte acted without a specific assignment, pretending to have been assigned. Wherefore both R<sub>2</sub> & R<sub>5</sub> by magistrate Judge Merze are illegal, unlawful and based upon "make belief", thus district judge lacked judicial authority to rely upon both R<sub>2</sub> & R<sub>5</sub> of the magistrate judge.

This point, issue was presented to 6th Cir. in Petition for Rehearing En Ban and is also included in Petition for Certiorari review. But Respondent dishonestly ignore the non-compliance with 28 U.S.C. § 636(b)(3) and unethically,

illegally uses the arguments from R<sub>2</sub> & R<sub>5</sub>, illegally as was done by dist. Judge and by Sue sponte 6th Cir order filed on November 14, 2022.

Respondent's Counsel need to be professionally ethical to present the True facts, not Twisted falsehood.

4.0. The First Jurisdictionally Sound Appeal case 20-4153 is still pending Seeking a Remand of case back to Dist. Ct. as (EC# 156, 157, 194) are not final judgments as courts failed to rule upon all claims in Petition and in record, so rendered a non-final judgment from which no COA can issue to proceed.

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5. Both questions presented by Petitioner in his Petition for certiorari review are valid questions, the Respondent has failed to address. Rule 11 is not applicable because Sixth Cir. denied the Petition for Rehearing En Banc, thus concluding the appeal as obvious from Feb. 3, 2023 order/Judgment to start the 90 days clock under 28 U.S.C. § 1251(1).

6. Any recusal motion against the Panel was to show that Panel acted unethically by not asking for the vote of en Banc court as Pannet was to read the Petition for Rehearing but chose to file the "form order" that in dream it had considered all the arguments in its sua sponte assertion of lack of jurisdiction without applying the FRCP 58(a) and 58(b)(1)(C) dist court denied all relief, and requirements never met of filing a separate document per FRCP 58(a) and to know the FRCP 58(c) Time of Entry was 150 days after Sept 7, 2022 as per FRCP 58(c)(2)(B).

7. The district Court had the jurisdiction Under FRAP 42(a) and action in aid of appeal to strike the duplicate, unauthorized by Petitioner, the illegal notice of Appeal as Appellant had already filed the First Jurisdictionally Sound Notice of Appeal (ECF. 164, 196) and timely amended it (ECF. 196) using FRAP case 20-4153 4(c) before the co-counsel filed her own duplicate Notice of Appeal as 6th Cir. clerk due to her past misconduct of abandoning Appellant Ahmed in 6th Cir. case 18-3292 (ECF. 135) and in the US Sup. CT. case 18-09331 had not appointed Atty Shank as co-counsel in First jurisdictionally Sound Appeal case 20-4153. which case is not dismissed but active. Only clerk filed the petition filed for cases 20-41302 and 21-3095 wrongly in Appeal case 20-4153 only involving single issue of denial of counsel. There was no COA needed nor issued so one wrongly filed order did not involve any issue of habeas corpus petition or Judgments (ECF. 156, 157, 194), thus First Appeal case ~~20-4153~~ 20-4153 is a valid First Appeal pending, seeks remand of case to dist. CT as judgement (ECF. 156, 194) are not final, failed to pass upon all claims.

#### CONCLUSION

Petition for writ of Coriturri be granted.

Respectfully submitted



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