

No. 22 A263

In The
Supreme Court of the United States

Kim L. Harper

Petitioner,
v.

JAMES M. ELLIS, Administrator of the Estate, PAT DOE1, ROCHELLE GREENIDGE, PAT
DOE2, BETH RODRIGUEZ, PAT DOE3, SONYA THOMAS, PAT DOE4, RED WOLF
CONTRACTING SERVICE LLC and MICHAEL SVENCICKI, LIEN CLAIMANTS, AND

RED WOLF CONTRACTING SERVICE LLC
and MICHAEL SVENCICKI

Respondents,

On Petition For A Writ of Certiorari To
The North Carolina Supreme Court

**MOTION TO FILE PETITION FOR A WRIT OF CERTIORARI OUT OF TIME
PURSUANT TO RULE 6(b)(1)(B)**


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17 October 2022

The Petitioner, Kim L. Harper “(Harper”), respectfully moves this honorable Court for an order directing the Clerk to file my petition for a writ of certiorari out of time pursuant to Rule 6(b)(1)(B), which seeks a review of a judgment of the The North Carolina Supreme Court, (Opinion by North Carolina Court of Appeals). Please see, *Pioneer Investment Services Company v. Brunswick Associates Limited Partnership*, 507 U.S. 380 (1993), *passim*.

I. MOTION TO FILE PETITION FOR A WRIT OF CERTIORARI OUT OF TIME PURSUANT TO RULE 6(b)(1)(B) & RULE 60(b)(4)

DECLARATION OF KIM L. HARPER

On 19 September 2022, Harper submitted to the attention of the Chief Justice, John Roberts, application for an extension of time to file the Petition. Justice Roberts approved the application granting Harper’s request to extend the filing date to 03 October 2022 (**Appendix A**).

Pursuant to Rule 6(b)1(B), Harper requests that excusable neglect warrant an extension of time to 05 October 2022, and that the court send an order to the Clerk allowing them to docket my petition.

Harper notes that her petition reflects deficiencies that need to be addressed. This state of affairs came about when Harper realized, on 03 October 2022, that another extension would be necessary, as mailing the petition was not going to make the 03 October 2022 deadline. Changes made to the petition caused problems (e.g., cutting/pasting text to the application, etc.), and running into printing problems created a “rush” situation, whereby Harper was intent on getting the petition timely filed. Harper noticed problems after the filing was enroute to the court and to the parties. All of this resulted in the Clerk’s return of Harper’s filing noting the following deficiencies:

1. The petition for a writ of certiorari was postmarked 05 October 2022 and received by the Clerk on 11 October 2022 (**Appendix B**).
2. Based on the application for a further extension dated 04 October 2022, the

extension request was also out of time (**Appendix C**).

Upon investigation, Harper realized that her filing was not in the form of a motion seeking appropriate relief. In the alternative, Harper hereby requests that this motion be treated as an extension of time to file her petition, pursuant to Rule 6(b)(1)(B), not to exceed 60-days, to 18 November 2022.

Upon investigation, although Harper, as her only recourse (Harper is Pro Se and can not e-file documents), left a telephone message for the Clerk that her filing had been sent overnight to the court to arrive by the scheduled time of receipt on 06 October 2022. No response from the Clerk was forthcoming, but Harper learned that this action was not an acceptable solution to the problem.

This case needs to be heard on the merits, and should not provide victory by default to the Respondents. The Petitioner has suffered a great deal due to the actions of the Respondents', and the Petitioner does not disqualify or discount the impact on other people like Harper who may have also experienced egregious due process violations, as well as the seizure of their private property by Buncombe County Clerk of Court, Probate division, outside of the constraints of statutory Law. James M. Ellis, Buncombe County Public Administrator for the Estate of Johnnie E. Harper, testified in the 02 June 2020 hearing de novo that he has prosecuted cases just like mine between 200-250 times. Harper is very concerned about this, as she knows the difficulties, the intimidation and the sense of total hopelessness to find any competent legal help in this situation. The issue of lack of subject matter jurisdiction looms large in this case pursuant to Rule 60(b) (3)(4)(6). Please see *Long v. Shorebank Development Corp.*, 182 F.3d 548 (7th Cir. 1999), *passim*.

“...In reaching this outcome, the court concluded that Long's complaint demonstrated that the defendants engaged in "fraud that actually prevented Long from participating in trial and circumvented a trial on the merits of her eviction." Accordingly, the court concluded that Long was properly before the court "because a void judgment may be attacked at any time, in any court, either directly or collaterally."

There is a difference between the Law being “silent”as to jurisdiction, and Law that

has been established for over 150 years regarding the holding(s) affecting the taking of intestate real property to make assets, *Comstock v. Crawford*, 70 U.S. 396 (1865).

Fatally, the circumstances surrounding the Gatekeeper Order against Harper not only prevented her from filing any documents in the court. Consequently, Harper had to inform the North Carolina Court of Appeals that evidence that she included in her record on appeal was “irregular” because she was not able to file the documents.

For example, Harper filed a motion for a Jury Trial on 03 March 2020, two-months before the June 2, 2020 hearing. Although Harper was able to get the court to stamp “Received” on the document, they would not file it. At the hearing, Judge Steve R. Warren exclaimed that Harper had made a jury demand at the hearing. This was not true, but Judge Warren clearly did not regard any evidence that he determined was not properly before the court. This is just one example of Harper’s experience in the OCCBC.

All of this, and more of the same, is reflected in Harper’s copy of the transcript. Harper is not allowed to send any court or any person a copy of the transcript.

For the reasons stated, the Petitioner, Kim L. Harper “(Harper”), respectfully moves this honorable Court for an order directing the Clerk to file my petition for a writ of certiorari out of time pursuant to Rule 6(b)(1)(B).

I, Kim L. Harper, declare under penalty of perjury under the laws of the United States of America that to the best of my information and belief, the foregoing is true and correct. Respectfully executed on this 17th day of October, 2022.



/s Kim L. Harper, Pro Se
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.....CERTIFICATE OF COMPLIANCE

This Petition For A Writ of Certiorari was prepared in Libre Office Writer using New Century Schoolbook, 12 point font. According to the Libre Office word-count feature, this petition is comprised of 8,388 words.

CERTIFICATE OF FILING AND SERVICE

I hereby certify that I have filed my Motion to File Petition For A Writ of Certiorari out of time pursuant to Rule 6(b)(1)(B) to the U.S. Supreme Court by mailing a copy of the documents via UPS shipping service, properly wrapped with postage attached, to the following address(es):

James M. Ellis
Stone & Christy Law Firm
110 N. Dougherty Street
Black Mountain, NC 28711

John Noor
Roberts & Stevens
City Centre Building
301 College Street, #400
Asheville, NC 28801

Edward Bleynat
Ferikes & Bleynat
67 Charlotte Street
Asheville, NC 28801

DECLARATION

I declare under penalty of perjury under the laws of the United States of America that to the best of my information and belief, the foregoing is true and correct. Executed on this the 25th day of November, 2022



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APPENDIX A
APPLICATION FOR TIME TO EXTEND

Justice Roberts approved the application granting Harper's request to extend the filing date to 03 October 2022 (Appendix A).

APPENDIX B
APPLICATION FOR TIME TO EXTEND (CLERK'S RETURN)

Clerk's return of Harper's filing and determination that Harper's renewed application for an extension of time through 04 October 2022 was untimely (filing was received by court on 05 October 2022).

APPENDIX C
APPLICATION FOR TIME TO EXTEND

To the Honorable Chief Justice, John G. Roberts of the U.S. Supreme Court, and for review by the entire court:

Kim L. Harper, Petitioner, requests an extension through Tuesday, 04 October 2022 to file her Petition for Writ of Certiorari.

I encountered a delay and did not make the cut-off time for mailing on 03 October 2022. The booklets are in the mail and are expected to arrive by Thursday, 06 October 2022.

I apologize for the problem, but there was nothing that I could do to avoid it. I would greatly appreciate it if you would consider my filing as being timely upon receipt.

Thank you in advance for your forbearance.



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