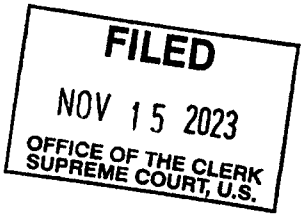
ORIGINAL

No. 23-6153

In The

SUPREME COURT OF THE UNITED STATES



Isaiah S. Harris Sr., Plaintiff-Appellant

vs.

Deborah S. Hunt, et al., Defendant-Appellees.

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

Isaiah S. Harris Sr., #570016
Richland Correction Institution
P.O. Box 8107
Mansfield, Ohio 44901

Pro se Litigant

Solicitor General of the United States,
Room 5614, Department of Justice,
950 Pennsylvania Ave., N.W.,
Washington, DC. 20530-0001

QUESTION(S) PRESENTED

Isaiah S. Harris Sr.'s case presents exceptional circumstances that warrant the exercise of this Court's discretionary power. Where Harris highlights that the willful violation of his protected civil rights calls for this court to recognize a cause of action under ***Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388, (U.S. 1971)***, the federal counterpart to ***42 U.S.C. § 1983***, to now include the First Amendment right to access the court to get redress during federal habeas corpus proceedings. The facts of this case forces this court to answer this fundamental question and all related questions stated herein: "who should decide whether to provide for a damages remedy, Congress or the Courts?"

1. Whether or not, in ***Antoine*** ***when this court did a "functional approach analyses",*** did this court imply a ***Bivens*** cause of action under the First Amendment? See, ***Antoine v. Byers & Anderson, 950 F.2d 1471, at 1472-1474 (9th Cir. 1991)*** compare ***Antoine v. Byers & Anderson, 508 U.S. 429, at 431 n.2. 437 (U.S. 1993)***

2. Whether or not, in comparison to the facts of Harris's case, does his case resemble a worthy cause to expand ***Bivens*** to include the First Amendment, in comparison to the 3-times this court has previously approved: "a claim against FBI agents for handcuffing a man in his own home without a warrant; a claim against a Congressman for firing his female secretary; and a claim against prison officials for failure to treat an inmate's asthma." See, ***Ziglar v. Abbasi, 582 U.S. 120, at 140 (U.S. 2017)*** citing ***Bivens, 403 U.S. 388; Davis, 422 U.S. 288; Carlson, 446 U.S. 14.***

3. Whether or not, if this court has adopted a policy in which leaves the public powerless to deter misconduct or to punish that which occurs for certain government officials, in which has the effect of placing them beyond the reach of the law? See, ***Imbler v. Pachtman, 424 U.S. 409, at 429 (U.S. 1976)***

4. Whether or not, if this principle still holds: "where there is a legal right, there is also a legal remedy by suit or action at law, whenever that right is invaded." See, ***Marbury v. Madison, 5 U.S. 137, at 163 (U.S. 1803)*** and ***Norton v. Shelby County, 118 U.S. 425, at 442 (U.S. 1886)***

5. Whether or not, if Congress could ***anticipate or contemplate*** a cause of action for the set of facts that Harris's case presents, where a federal court clerk ***unlawfully suspends*** a State inmate's federal habeas corpus proceedings ***without providing*** him a remedy for relief outside of this cause of action before this court on certiorari?

6. Whether or not, if this principle still holds: "prisoners have a constitutional right of access to the court. The writ of habeas corpus is the precious safeguard of personal liberty and there is no higher duty than to maintain it unimpaired." See, ***Bounds v. Smith, 430 U.S. 817, at 821-822 (U.S. 1977)*** and ***Bowen v. Johnston, 306 U.S. 19, at 26 (U.S. 1939)***

LIST OF PARTIES

[X] All parties do not appear in the caption of the cover page.

Just to be clear, the list of Defendants are as follows:

Employees of the United States Court of Appeals for The Sixth Circuit:

- Deborah S. Hunt
- Clarence Maddox
- Susan S. Rogers
- Marc Theriault
- Julie A. Cobble
- Amy [unknown]
- John Doe 1-10
- Jane Doe 1-10

Employees of the United States Supreme Court:

- Clayton Higgins Jr.
- Scott S. Harris

CORPORATE DISCLOSURE STATEMENT

Since Harris is not affiliated with any organized group required to be disclosed by ***USCS Supreme Ct. R. 29.6***, it is not necessary for disclosure by Harris.

Executed on November 14, 2023

Prepared by,

Isaiah S. Harris Sr.

Isaiah S. Harris Sr. #570016
P.O. Box 8107
Mansfield, Ohio 44901

LIST OF PROCEEDINGS

- ***Harris v. Clipper, 2015 U.S. Dist. LEXIS 187060, (N.D. Ohio, May 12, 2015) (report and recommendation) Case No. 1:14CV846***
- ***Harris v. Clipper, 2017 U.S. Dist. LEXIS 36281, (N.D. Ohio, March 14, 2017) (judgement) Case No. 1:14CV846***
- ***Harris v. Cliper, 2017 U.S. Dist. LEXIS 88213, (N.D. Ohio, June 2017) (reconsideration, Case No. 1:14CV846***
- ***Isaiah Harris v. Dave Marquis, (U.S. 6th Cir. 2017) (Certificate of Appealability) Case No. 17-3326***
- ***In re Harris, 2021 U.S. LEXIS 4768, (U.S. 2021) (habeas corpus) Case No. 21-5256.***
- ***In re Harris, 2021 U.S. LEXIS 6124, (U.S. 2021) (rehearing) Case No. 21-5256***
- ***In re Harris, 2022 U.S. LEXIS 2249, (U.S. 2022) (mandamus) Case No. 21-7246.***
- ***In re Harris, 2022 U.S. LEXIS 2715, (U.S. 2022) (rehearing) Case No. 21-7246.***
- ***Harris v. Hunt, 2022 U.S. Dist. LEXIS 198032, (N.D. Ohio, October 31, 2022) (1983 complaint) Case No. 1:22-CV-1255***
- ***Harris et al v. Hunt et al, 2023 U.S. App. LEXIS 9150, (U.S. 6th Cir. 2023) (In Forma Pauperis) Case No. 22-4028***
- ***Harris et al v. Hunt et al, 2023 U.S. App. LEXIS 29468, (U.S. 6th Cir. 2023) (appeal) Case No. 22-4028***

TABLE OF AUTHORITIES CITED

TABLE OF CONTENTS

INDEX TO APPENDIXES

WRIT OF CERTIORARI

Petitioner Isaiah S. Harris, Sr., invokes this Court's broad and discretionary power pursuant to ***28 U.S.C.S. §§ 2241, 1651(a), Article III of the U.S. Constitution, and 42 U.S.C.S. §§ 1983, 1985, 1986, and 1988,*** to remand this case to the Federal District Court with instructions to ***reinstate*** the lawsuit against federal clerks and executives for failure to perform ministerial duties, in which denied Harris meaningful and effective access to the court in federal habeas corpus proceedings.

OPINION BELOW

The opinion of the United States Court of Appeals for the Sixth Circuit is unpublished at ***USAP6 No. 22-4028, November 3, 2023*** and attached at ***Appendix A.***

STATEMENT OF JURISDICTION

The order of the Court of Appeals affirming the district court's judgment based on the assumption that "[T]he Court has never recognized a ***Bivens*** action for any First Amendment right." The order of the Sixth Circuit Court of Appeals was entered on ***November 3, 2023.*** This Court's jurisdiction is invoked pursuant to ***28 U.S.C.S. §§ 2241, 1651(a), Article III of the U.S. Constitution, and 42 U.S.C.S. §§ 1983, 1985, 1986, and 1988.***

RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS

THE FIRST AMENDMENT OF THE UNITED STATES CONST. STATES IN RELEVANT PART: Congress shall make no law... abridging the freedom of speech... or the right to petition the Government for redress of grievances.

THE FIFTH AMENDMENT OF THE UNITED STATES CONST. STATES IN RELEVANT PART: Nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law;

THE SIXTH AMENDMENT OF THE UNITED STATES CONST. STATES IN RELEVANT PART: Shall enjoy the right to confronted with the witness against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONST. STATES IN RELEVANT PART: No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

EXCEPTIONAL CIRCUMSTANCES THAT WARRANT THE EXERCISE OF THIS COURT'S DISCRETIONARY POWER

(Statement of the Case)

The original habeas petition was filed on ***April 18, 2014*** and decided on ***March 14, 2017.*** Plaintiff Harris (hereinafter Harris) ***timely appealed*** to the U.S. Court of Appeals for the Sixth Circuit on ***March 27, 2017*** and docketed on ***March 31, 2017.***

The case was held in abeyance pending the district court's decision on reconsideration decided on ***June 8, 2017.***

The defendant Sixth Circuit Clerk Deborah S. Hunt (hereinafter Hunt) ***denied*** Harris's certificate of appealability (COA) ***without the explicit instruction or endorsement of any identified*** Sixth Circuit Judge on ***September 28, 2017.*** See, ***Appendix B,*** fully incorporated herein. See ***unpublished order*** from clerk in comparison to ***published orders*** from the court. See, ***Appendixes P & Q,*** fully incorporated herein in comparison to ***Appendix B,*** fully incorporated herein.

The defendant Sixth Circuit Clerk Hunt denied (COA) on ***September 28, 2017 without*** the direction of an ***identified*** circuit judge. Then signed off on the ***unpublished order*** denying habeas relief as if it is legitimate and or binding, ***without*** any authority to do so, and ***without the court's jurisdiction.*** Consequently, denying Harris an opportunity to be heard on the merits with a ***winning argument in hand***. Thus, Having an ***insurmountable prejudicial effect*** on all of Harris's subsequent litigation ***pursuant to the doctrine of finality.***

Hunt's actions were in violation of ***§2253(c)(1)(c)(2).*** See, ***Appendix C,*** fully incorporated herein. Which specifically states: ***"COA must be issued by a Circuit Judge."*** Also, Hunt violated ***Sixth Circuit Rule 45(a).*** See, ***Appendix E,*** fully incorporated herein. Which specifically states: ***"A clerk's order must show that it was authorized under Sixth Circuit Rule 45(a)."***

___ Defendants' Maddox, Rogers, and John & Jane doe 1-10, conspired, or failed to supervise, correct, an or intervene. As such at all relevant times, they were acting in such capacity as the agent, servant and employee of the United States.

Thereafter, Harris filed a motion on ***December 10, 2017*** to extend the 90-day time limitation to file a writ of certiorari with the U.S. Supreme Court, for an additional period of 60-days pursuant to ***Supreme Court Rule 30.2.*** So, as to avoid Harris petition for writ of certiorari from being considered untimely as of ***December 10, 2017.***

Therein, the ***December 10, 2017*** application for an extension of time would have made Harris's then writ of certiorari (directly appealing Hunt's counterfeit order) timely by ***February 25, 2018.***

Thereupon, defendant Higgins, ***November 9, 2018*** correspondence ***revealed*** that plaintiff Harris's writ of certiorari was postmarked for ***February 16, 2018*** and received on ***February 23, 2018 (in time).*** See, ***Appendix F,*** fully incorporated herein. Thus, ***making Harris's writ timely*** if the U.S. Supreme Court had a chance to review and grant Harris's requested 60-day motion to extend the time from ***December 27, 2017 to February 25, 2018.***

Significantly, here the defendant Higgins's ***November 9, 2019*** correspondence is ***9-months after*** the fact Harris filed his original writ of certiorari on ***February 16, 2018*** that Higgins failed to file and place on the Supreme Court's docket. Higgins actions reveal an ***unprecedented exorbitant*** amount of time that ***can't*** be overlooked or minimized in the ***light most favorable*** to support plaintiff Harris's claim.

Especially, when one considers defendant Hunt's ***unpublished order,*** in comparison to, when plaintiff Harris originally filed the writ of certiorari ***nine-months-prior*** to receiving defendant Higgins's correspondence about the writ of certiorari ***directly appealing*** Hunt's

unpublished counterfeit order. Hence, this is the ***birth*** of the conspiracy to ***illegally suspend*** Harris's federal habeas corpus proceedings, in which he has a ***liberty stake***, that is constitutionally protected by law, whereas, ***every U.S. citizen is guaranteed to have access to the court to get redress of a grievance.***

Thereafter, the ***November 9, 2018*** letter from defendant Higgins, Higgins told Harris over the phone, via prison case manager, there are ***two available avenues*** to use to get the then writ of certiorari to be considered filed timely. See, ***Appendix G,*** "Harris's affidavit," fully incorporated herein. Where, Higgins told Harris to ***(1)*** send mailing affidavit regarding the ***December 10, 2017*** motion to extend the time for 60-days pursuant to the ***Supreme Court Rule 29.2.*** and ***(2)*** file a motion to direct the clerk to proceed with the out of time certiorari as if it is timely.

Harris in good faith, ***naively*** did exactly what Higgins instructed him to do over the phone. However, defendant Higgins decides to ***refuse to file*** plaintiff Harris's writ of certiorari ***in spite*** of Harris obeying his instructions. Defendant Higgins instead sends Harris a second letter dated ***February 15, 2019*** three-months ***after*** the ***November 2018*** letter and phone call about filing a timely writ of certiorari. See, ***Appendix H,*** fully incorporated herein.

Therein, the ***February 15, 2019*** letter from defendant Higgins reveals that the second filing from Harris "in good faith" was received on ***November 28, 2018*** soon after the phone the phone call with defendant Higgins. In which was a total of ***19-days*** after the ***November 9, 2018*** initial letter from defendant Higgins, that was ***nine-months-prior*** to Harris's first filing that was received in ***February 2018.*** See, ***Appendix H,*** fully incorporated herein. As a result, Harris was denied effective and meaningful access to the court for a ***full year*** from ***February 2018 to February 2019, when Harris initially mailed out the writ of certiorari.***

Furthermore, a few weeks after the second letter from defendant Higgins sent on ***February 15, 2019.*** Harris filed an application to Justice Elena Kagan in ***March of 2019,*** pursuant to ***Supreme Court Rule 22,*** at the time Justice Kagan was the Justice appointed over the Sixth Circuit.

Defendants' Higgins, Scott S. Harris, and John/Jane Doe 1-10, ***did not file this motion or respond in any manner.*** See, ***Appendix I,*** (***2019*** proof of postage for Application to Justice Kagan), fully incorporated herein. Also, see ***Appendix J,*** (***2020*** proof of postage, follow up letter for Application to Justice Kagan), fully incorporated herein.

Defendant's Higgins, Scott S. Harris, and John/Jane doe 1-10 ***did not file or respond to either filling in any way*** pursuant to ***Supreme Court Rules 14.5 and 39.8.*** See, ***Appendix K & Appendix L*** incorporated herein. As a result, creating a "then" ***three-year-total-denial-of-access-to-the court.***

Significantly, when one considers the fact of Harris's ***pro se status (not being an attorney)*** and Defendants' actions and the ***length of time*** it took for Higgins ***to respond*** to any of Harris's filings ***prior to 2021.*** Harris was ***none the wiser*** until after the fact when he compared the ***length of time*** it took for Higgins to respond to Harris's filing at ***Appendix R,*** fully incorporated herein (defendant Higgins's ***2021*** correspondence about letter to Justice Kavanaugh.) ***in comparison to*** all of Harris's filings ***prior to this point,*** of the "then" ***four-year-total-denial-of-access-to-the-court.***

Accordingly, up until this point Harris was denied access to the court by Hunt and Higgins for a ***full four years dating from 2017 to 2021, (1)*** by hunt giving an unpublished, counterfeit three-page COA opinion denying habeas relief on the merits, ***without*** the explicit endorsement from an ***identified*** Sixth Circuit Judge, and ***(2)*** by Higgins taking an ***unprecedented exorbitant*** amount of time to respond to Harris's filings, ***and or not responding at all for four years, 2021.***

Portentously, when one considers ***Appendix R,*** (defendant Higgins, ***2021*** correspondence about letter to Justice Kavanaugh.) where Higgins responded to this filing the ***very next day.*** With this in mind, the appearance of impropriety in furtherance of a ***conspiracy*** is magnified here at this point.

Since four full years have passed at this point, Harris was left with ***no*** other alternative but to ***foreclose on the writ of certiorari*** as a direct result of defendants' actions and willingness to deny Harris ***meaningful access to the court.*** The appearance of impropriety in furtherance of a ***conspiracy*** is magnified here at this point too, when one considers Higgins and Hunt's actions revealed they had taken a ***personal interest*** in Harris's case for them to deviate this far from the rules and statutes of the court, ***autonomous*** to the ***explicit endorsement*** of ***any*** identified sitting Judge or Justice. Thus, having a ***debilitating prejudicial effect*** on all of Harris's subsequent litigation in federal court.

Moreover, Higgins ***continued to be a hindrance*** to Harris's fillings. See, ***Appendix S,*** (Higgins, ***April 21, 2022*** correspondence about Mandamus Rehearing on matters related to Hunt), fully incorporated herein. Indeed, Higgins ***totally lied*** here, it can be easily inferred in light of ***Supreme Court Rule 44*** and Harris's corresponding letter. As a consequence, creating an ***undue*** burden for plaintiff Harris in light of the 14-day time requirement to refile said petition for rehearing.

Significantly, when on ***compares*** the contents of ***Appendix S,*** (Higgins, ***April 21, 2022*** correspondence, in comparison to ***Harris's April 27, 2022*** letter detailing Higgins ***bare faced misrepresentation*** of the ***Supreme Court Rule 44*** detailed in Higgins ***April 21, 2022*** letter, in comparison to text found in the actual ***Supreme Court Rule 44.2),*** there is only one conclusion that one could make, Higgins has full knowledge of this ***conspiracy with Hunt.***

Defendants' Higgins, Scott S. Harris, and John/Jane Doe 1-10 failed to supervise, train or intervene. For this reason, has displayed a ***deliberate indifference*** to any documented widespread abuses, in which highlights the culture of their office when it comes to handling incarcerated pro se litigants' filings.

Then on ***March 3, 2022*** plaintiff Harris petitions the U.S. Court of Appeals for the Sixth Circuit for a ***new lawful*** certificate of appealability (COA) pursuant to ***§2253(c)(1)(c)(2),*** See, ***Appendix C.*** Also, see, ***Appendix M,*** proof of postage, fully incorporated herein. ***Which was never filed, docketed, and with no explanation from the clerks' office as to why.***[1] See, ***Appendix T,*** (6th Cir. Court ***February 22, 2023*** response to the ***March 3, 2022*** petition ***after*** it was the subject in the original ***§1983 complaint filed July 15, 2022.)***

Furthermore, on ***March 14, 2022*** defendant John/Jane Doe 1-10 signed for the U.S. Certified Mail, which was for a new lawful COA. See, ***Appendix N,*** fully incorporated herein.

Not to mention, sometime during the time between ***March 14, 2022 and April 19, 2022*** defendant "Amy" told plaintiff Harris's cousin Earl Harris that ***"the court does have plaintiff Harris's new March 14, 2022 application for COA, but Harris's case will remain closed".***

Lastly, on ***May 11, 2022*** Harris sent a ***Motion to Recall the Mandate*** along with ***another new application for a lawful COA,*** sent via certified U.S. mail. See, ***Appendix O,*** (proof of postage) fully incorporated herein. ***In fact, which has never been filed, docketed, and without any legitimate response from the court as to the reasons why, to this day.***

[1] It should be noted that the United States Court of Appeals for the Sixth Circuit ***officially responded*** to ***Harris's March 3, 2022*** petition for a ***new lawful*** certificate of appealability on ***February 22, 2023, nine-days shy of a year. This is indicative of the defendants' action of denying Harris effective and meaningful access to the court during his federal habeas corpus proceedings.*** Further, the court never intended to ***officially respond to the March 3, 2022 petition.*** Compelling evidence suggests, that the ***only*** reason for a response from the court at all is, ***because of that filing is the subject of Harris's §1983 civil rights claim for denial of access to the court.***

—It's important to realize, that Harris was denied effective and meaningful access to the court during his ***federal habeas proceedings*** as a result of defendants' ***inaction or failure to file, docket, and or respond to any court filing directly appealing Hunt's counterfeit COA order, or reopening case number 17-3326 totaling more than five full years.***

Defendant's Theriault, Cobble, Hunt, Amy, and John/Jane Doe 1-10 ***failed to file and docket*** Harris's Motion to Recall the Mandate and New Application(s) for COA. In doing so, has failed to supervise, train, or intervene, in which displays ***deliberate indifference to any abuse.***

Defendant's actions have denied Harris ***meaningful access to the court,*** while Harris has ***a dead-bang-winning-argument in hand,*** that would surely gain Harris relief from a patently unconstitutional conviction during his ***first and only habeas corpus proceedings.*** The merits of Harris's COA was decided by Clerk Hunt in the first instance without the explicit direction or endorsement from any identified sitting Circuit Judge and or without the court's jurisdiction. As such at all relevant times all defendants' were acting in such capacity as the agents, servants, and employees of the United States.

Law & Argument

Isaiah S. Harris Sr.'s case presents exceptional circumstances that warrant the exercise of this Court's discretionary power. Where Harris highlights that the ***willful violation*** of his protected civil rights calls for this court to ***recognize*** a cause of action under ***Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388, (U.S. 1971),*** the federal counterpart ***to 42 U.S.C. § 1983,*** to now include the First Amendment right to access the court to get redress during federal habeas corpus proceedings. The facts of this case forces this court to answer this fundamental question and all related questions stated herein: ***"who should decide whether to provide for a damages remedy, Congress or the Courts?"***

Harris asks this court, in ***Antoine,*** did this court imply a ***Bivens*** cause of action under the First Amendment? See, ***Antoine v. Byers & Anderson, 950 F.2d 1471, at 1472-1474 (9th Cir. 1991)*** compare ***Antoine v. Byers & Anderson, 508 U.S. 429, at 431 n.2., 437 (U.S. 1993)*** in which both case state in relevant part:

> Jeffery Antoine appeals the district court's grant of summary judgment in favor of Byers & Anderson, Inc. and Shanna Ruggenberg. Antoine asserted constitutional claims for violation of due process and ***access to the courts*** plus state law claims for breach of contract as a result of Ruggenberg's failure to produce a criminal trial transcript. The district court held that Ruggenberg, a delinquent court reporter, was absolutely immune as a quasi-judicial officer. Byers & Anderson, Ruggenberg's "employer," and Ruggenberg cross-appeal from denial of summary judgment on the issue of whether Ruggenberg was an independent contractor or an employee. ***We affirm.***
>
> A federal agent acting under authority of purely federal law cannot be held liable under ***Section 1983. Scott v. Rosenberg, 702 F.2d 1263, 1269 (9th Cir. 1983), cert. denied, 465 U.S. 1078, 79 L. Ed. 2d 760, 104 S. Ct. 1439 (1984).*** Because Ruggenberg was a federal, not state, agent, and because Antoine filed his action pursuant to ***42 U.S.C. § 1983,*** we must first determine whether the district court had jurisdiction to adjudicate his claim. Antoine apparently recognized the problem and sought to amend his complaint to set forth the jurisdictional basis as ***28 U.S.C. § 1331 (1988),*** but the claims were dismissed before the amendment became effective. The district court's summary judgment order disposed of the case as if it were a Section ***1983 action.***
>
> On appeal, Antoine characterizes his suit as a ***Bivens*** action. *See* ***28 U.S.C. § 1331; Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388, 29 L. Ed. 2d 619, 91 S. Ct. 1999 (1971). We follow Mullis v. U.S. Bankruptcy Court, 828 F.2d 1385 (9th Cir. 1987), cert. denied, 486 U.S. 1040, 100 L. Ed. 2d 616, 108 S. Ct. 2031 (1988),*** and ignore Antoine's initial mischaracterization. In Mullis, the action against federal agents was filed as a Section ***1983*** action instead of as a federal question case. On appeal, this court ignored Mullis' mischaracterization and found jurisdiction in the district court under ***28 U.S.C. § 1331. Mullis, 828 F.2d at 1387 n.7.*** Because immunity in ***Bivens*** actions is coextensive with immunities recognized in Section ***1983*** cases, our decision is unaffected by the jurisdictional basis. See, ***e.g. Harlow v.***

Fitzgerald, 457 U.S. 800, 818 n.30, 73 L. Ed. 2d 396, 102 S. Ct. 2727 (1982); Butz v. Economou, 438 U.S. 478, 504, 57 L. Ed. 2d 895, 98 S. Ct. 2894 (1978); F.E. Trotter, Inc. v. Watkins, 869 F.2d 1312, 1318 (9th Cir. 1989). We conclude we have jurisdiction to hear this appeal.

Without reaching questions of liability or damages, the Court of Appeals affirmed. Reasoning that judicial immunity is "justified and defined by the functions it protects and serves," *Forrester v. White, 484 U.S. 219, 227, 98 L. Ed. 2d 555, 108 S. Ct. 538 (1988) (emphasis omitted),* and that "the tasks performed by a court reporter in furtherance of her statutory duties are functionally part and parcel of the judicial process," the Court of Appeals held that actions within the scope of a reporter's authority are absolutely immune. *950 F.2d at 1475-1476.*

Some Circuits have held that court reporters are protected only by qualified immunity. *We granted certiorari to resolve this conflict. 506 U.S. 914 (1992).*

Finally, respondents argue that strong policy reasons support ***extension of absolute immunity*** to court reporters. According to respondents, given the current volume of litigation in the federal courts, some reporters inevitably will be unable to meet deadlines. ***Absolute immunity*** would help to protect the entire judicial process from vexatious lawsuits brought by disappointed litigants when this happens. Requiring court reporters to defend against allegations like those asserted here, on the other hand, would not only be unfair, but would also aggravate the problem by contributing further to the caseload in the federal courts.

Assuming the relevance of respondents' policy arguments, ***we find them unpersuasive for three reasons.*** *First,* our understanding is that cases of this kind are relatively rare. Respondents have not provided us with empirical evidence demonstrating the existence of any significant volume of vexatious and burdensome actions against reporters, even in the Circuits in which ***reporters are not absolutely immune.*** See *n.3, supra.* *Second,* if a large number of cases does materialize, ***and we have misjudged the significance of this burden,*** then a full review of the countervailing policy considerations *by the Congress* may result in ***appropriate amendment to the Court Reporter Act.*** *Third,* and most important, we have *no reason* to believe that the *Federal Judiciary,* which surely is familiar with the special virtues and concerns of the court reporting profession, *will be unable to administer justice to its members fairly.*

The judgment of the Court of Appeals is reversed, and the case is remanded for further proceedings consistent with this opinion. ***So ordered.***

With this in mind, Harris provided this court with the basis to settle ***Antoine*** in harmony with ***Bivens.*** Harris has clearly demonstrated that he was denied effective and meaningful access to the court during his federal habeas corpus proceedings from ***Sept 28, 2017 to May 11, 2022.*** In other word, from the moment Clerk Hunt's ***counterfeit unpublished*** order was entered ***September 2017*** without the explicit instruction from any ***identified*** Sixth Circuit Judge, until ***May 2022*** the Sixth Circuit office ***failed to perform*** a ministerial duty of filing, docketing, ***and or timely responding*** to Harris's Motion to Recall the Mandate in Sixth Circuit ***Case No. 17-3326,*** he was denied effective and meaningful access to the court. Therefore, denying Harris the right to petition the court to appeal or reopen Harris's COA proceeding with meritorious claims.

This is very concerning, because the Sixth Circuit ***retains inherent authority*** to grant or to expand a COA in their own discretion. See, ***Johnson v. Hudson, 421 Fed.Appx. 568, 570 n.1. (6th Cir. 2011).*** For this reason, Harris's ***meritorious claims*** for COA should have been properly addressed by an identified Sixth Circuit Judge, ***rather than sit dormant in the clerk's office for months or years without any explanation as to why.*** As a result, ***Harris's meritorious claims are lost forever.***

Moreover, Harris has established that Defendants' conduct violated a right ***so clearly established that any official in his/her position would have clearly understood that he/she was under an affirmative duty to refrain from such conduct.***

In Harris's case, reasonable minds ***cannot fathom*** a scenario where ***licensed counsel*** in good faith would file documents in court and ***not get an immediate response from the clerk's office*** detailing any deficiency within the filing or detailing why it could not be processed.

Therefore, in Harris's case, ***any official*** would have clearly understood that he/she was under an affirmative duty to refrain from such conduct.

Even more concerning, is the fact that Harris filed a ***timely appeal*** lawfully invoking the court's jurisdiction in which his case was then filed and placed on the court's docket under ***Case No. 17-3326.*** Hence, the district court ***abused its discretion*** when it claimed that Harris was barred from ***§1983*** relief because of the doctrine of judicial immunity in relation to clerk Hunt's actions. Consequently, contravening clearly established Sixth Circuit case precedent in ***Scott v. Evans, 2006 U.S. Dist. LEXIS 11326, at *17 (6th Cir. 2006)*** which states in relevant part:

> According to the complaint, ***these clerks were not carrying forward a directive of a judge,*** executing the prescribed functions of their office, making a decision, or interpreting a procedural rule. ***They simply failed or refused to carry out a ministerial act.*** Their acts cannot be considered as essentially "judicial," ***and they cannot claim immunity from liability in such a case.***

Harris has clearly demonstrated that the ***clerks*** acted contrary to his or her lawful authority ***because the authoring judge is not identifiable,*** and Harris ***meritorious claims for COA*** should have been addressed by an identified Sixth Circuit Judge, rather than sit dormant in the clerks' office for months or years without any explanation as to why. Henceforth, the clerks' ***cannot claim*** that he/she was carrying forward a directive of a ***Sixth Circuit Judge that is unidentified,*** or claim to executing the prescribed functions of his/her office, because ***clerks' are not authorized*** to decide the merits of an inmates' habeas corpus petition ***or*** let meritorious claims for COA sit dormant in the clerks' office for months ***or*** years without any explanation as to why. Harris has documentary evidence that illuminates this fact. See, ***Appendix A through T,*** fully incorporated herein.

Point often overlooked, Harris demonstrates ***there is*** precedent to ***deny quasi-judicial immunity to court clerks*** engaged in mere ***ministerial conduct*** that neither involves discretionary decisions nor taken pursuant to judicial order, see the following:

See, ***Johnathan Lee X v. Casey, No. 90-6677, 191 U.S. App. LEXIS 1488, 1991 WL 10084, at *1 (4th Cir. Feb. 4, 1991).*** (***denying*** quasi-judicial immunity to ***clerk*** who allegedly failed to filed petitioner's appeal); ***McCray v. State of Md., 456 F.2d 1, 4 (4th Cir. 1972).*** ("There is ***no basis*** sheltering the ***clerk*** from liability under ***§1983*** for failure to perform a required ministerial act such as properly filing paper."); ***Harbeck v. Smith, 814 F.Supp.2d 608 (E.D. Va. Aug. 30, 2011).*** (***denying*** quasi-judicial immunity to ***clerk*** who failed to notify correctional facility that charges against criminal defendant had been dismissed); ***Page v. Albertson, 1990 U.S. App. LEXIS 16045 (6th Cir. Sept. 10, 1990).*** (A court ***clerk's*** alleged failure to file or to assign a party's motion ***promptly*** may be characterized under Michigan State law as an administrative act, which will ***not be*** subject to quasi-judicial immunity.)

It must be remembered, the act(s) of a ***clerk*** to hold meritorious claims for years in his/her office ***or*** to decide the merits of an inmates' certificate of appealability ***is not integral or intertwined with the judicial process.*** Especially, when the ***court's file reflects*** that clerk Deborah S. Hunt's name is the ***only name on file*** associated with the three-page counterfeit unpublished order. To also point out, Harris's ***May 11, 2022*** Motion to Recall the Mandate ***was never filed or responded to as to why to this day.***

To put it differently, Harris's case is distinguished from that of ***Beasley v. Roberts*** because the Sixth Circuit Court's file ***does not identify*** the name of the judge who ***should have*** originally endorsed Hunt's counterfeit unpublished three-page order in ***case number 17-3326.*** Compare, ***Beasley v. Roberts, 1997 U.S. Dist. LEXIS 8187, (11th Cir.),*** in which states as follows:

> The inmate filed his action and asserted that he was deprived of access to the court when the ***clerk denied a motion without judicial authority,*** which caused him considerable duress and worry. The cause was referred to the magistrate for a report and recommendation. The magistrate stated that attached to the complaint was a copy of the notice that the motion was denied. A review of the motion as it appeared in ***the court file revealed two red stamps*** at the bottom of page one. ***The first stamp*** indicated that the motion was referred to the judge for ruling or appropriate action. ***The second stamp*** reflected that the motion was denied and there was an original endorsement of the judge. The motion was followed

> by the notice of ruling entered and singed by the clerk. The court stated that the inmate's allegation did not rise to the level of a constitutional violation and his concern did not amount to an actual injury. ***The inmate's distress concerning the clerk's signature on the notice was misplaced as the file clearly reflected that the motion was denied by the judge and not by the clerk.*** The inmate did not specifically allege a conspiracy and failed to name a second conspirator.

Comparatively, see, ***Appendix T,*** (Sixth Circuit Court's ***official February 22, 2023 response*** to the ***March 3, 2022 petition after*** it was the subject in the original ***§1983 filed July 15, 2022.).*** In particular, where Sixth Circuit Case Management Supervising Attorney Alicia Harden, ***admitted on record that: "Orders of this court authored by a single judge did not at the time identify the authoring judge".*** For this reason, totally contradicting ***Cir. R. 25(d)(3)*** where the clerk signed the order on behalf of and at the direction of the authoring judge, ***which implies the name must be identified.*** For an example for comparison to published order in ***Harris v. Hunt, 2023 U.S. App. LEXIS 9150, (6th Cir.),*** on file that clearly ***identifies Circuit Judge Mathis.***

Harris submits, likewise this court has to take a ***"functional"*** approach in determining whether an official is entitled to ***absolute immunity.*** See, ***Antoine v. Byers & Anderson, 508 U.S. 429, at 436-437 (U.S. 1993),*** which states that duties of court reporter were ***not functionally equivalent to those of judges,*** therefore, ***not protected by judicial immunity,*** in relevant part:

> When judicial immunity is extended to officials other than judges, it is because their judgments are ***"functionally comparable"*** to those of judges -- that is, because they, too, "exercise a discretionary judgment" as a part of their function. ***Imbler v. Pachtman, 424 U.S. at 423, n.20. Cf. Westfall v. Erwin, 484 U.S. 292, 297-298, 98 L. Ed. 2d 619, 108 S. Ct. 580 (1988) (absolute immunity from state-law tort actions available to executive officials only when their conduct is discretionary).***
>
> ***The function performed by court reporters is not in this category.*** As noted above, court reporters are required by statute to "record verbatim" court proceedings in their entirety. ***28 U.S.C. § 753(b). They are afforded no discretion in the carrying out of this duty;***

> they are to record, as accurately as possible, what transpires in court. See ***McLallen v. Henderson, 492 F.2d 1298, 1299 (CA8 1974) (court reporters not absolutely immune "because their duties are ministerial, not discretionary, in nature"); Waterman v. State, 35 Misc. 2d 954, 957, 232 N.Y.S.2d 22, 26 (Ct. Cl. 1962), aff'd in part, rev'd in part, 19 A.D.2d 264, 241 N.Y.S.2d 314 (4th Dept., App. Div. 1963) (same).*** We do not mean to suggest that the task is less than difficult, or that reporters who do it well are less than highly skilled. ***But the difficulty of a job does not by itself make it functionally comparable to that of a judge. Cf. Malley v. Briggs, 475 U.S. 335, 342, 89 L. Ed. 2d 271, 106 S. Ct. 1092 (1986) (police officer not entitled to absolute immunity for conduct involved in applying for warrant).*** Nor is it sufficient that the task of a court reporter is extremely important or, in the words of the Court of Appeals, "indispensable to the appellate process." ***950 F.2d at 1476.*** As we explained in Forrester, some of the tasks performed by judges themselves, "***even though they may be essential to the very functioning of the courts, have not . . . been regarded as judicial acts." 484 U.S. at 228.*** In short, ***court reporters do not exercise the kind of judgment that is protected by the doctrine of judicial immunity.***

By the same token, the clerks' functions are ***"Ministerial-Operational"*** acts which involve the execution or implementation of a decision and entail ***only minor decision-making.*** Indeed, Harris's distress concerning the ***clerk's*** signature on his COA is ***not misplaced*** as the court file clearly reflects that the certificate of appealability was in fact denied by Sixth Circuit Clerk Deborah S. Hunt, because the ***order never identified the Sixth Circuit's Judge's name on the counterfeit unpublished order.***

This is also particularly concerning in the ***context*** that Hunt's actions were in violation of ***§2253(c)(1)(c)(2).*** See, ***Appendix C,*** fully incorporated herein. Which the federal statute specifically states: ***"COA must be issued by a Circuit Judge," in which implies the name of the judge be identified, in conjunction with Cir. R. 25(d)(3).*** Also, Hunt violated ***Sixth Circuit Rule 45(a),*** See, ***Appendix E,*** fully incorporated herein. In which the federal statute specifically states: ***"A clerk's order must show that it was authorized under Sixth Circuit Rule 45(a)".***

Therefore, Hunt either knew or should have known that her actions were unlawful and in violation of Harris's protected U.S. Constitution First Amendment Rights to have access to the court and to petition the court to get redress during his first and only federal habeas corpus proceedings. Hence, the defendant's in this case have ***unlawfully abridged or impaired*** Harris's rights to redress in federal court during his federal habeas corpus proceedings. Harris cites the following to ***support*** that his First Amendment right to have access to the court is well known, and well established, therefore, ***there should be a legal remedy by suit if all federal actions are exhausted,*** please view the following which states in relevant part:

> ***Johnson v. Avery, 393 U.S. 483, at 485 (U.S. 1969)*:** Since the basic purpose of the writ is to enable those unlawfully incarcerated to obtain their freedom, ***it is fundamental that access of prisoners to the courts for the purpose of presenting their complaints may not be denied or obstructed.***
>
> ***Bowen v. Johnston, 306 U.S. 19, at *26 (U.S. 1939):*** It must ***never be forgotten*** that the writ of habeas corpus is the precious safeguard of personal liberty and there is ***no higher duty*** than to maintain it unimpaired. ***Ex parte Lange, supra.***
>
> ***Marbury v. Madison, 5 U.S. 137, at 163 (1803):*** "In all other cases," he says, ***"it is a general and indisputable rule,*** that where there is a legal right, ***there is also a legal remedy by suit or action at law, whenever that right is invaded."***
>
> ***Norton v. Shelby County, 118 U.S. 425, at 442 (U.S. 1886):*** An unconstitutional act is ***not*** a law; it confers ***no*** rights; it imposes ***no*** duties; it affords ***no*** protection; it creates ***no*** office; it is, in legal contemplation, as ***inoperative*** as though it had ***never*** been passed.
>
> ***Bounds v. Smith, 430 U.S. 817, at 821-822 (U.S. 1977):*** It is now ***established beyond doubt*** that prisoners have a constitutional right of ***access to the courts.*** We held this violated the principle that "the state and its ***officers may not abridge or impair*** petitioner's right to apply to a ***federal court*** for a writ of habeas corpus." ***Id., at 549. See also Cochran v. Kansas, 316 U.S. 255 (1942).***
>
> ***Imbler v. Pachtman, 424 U.S. 409, at 429 (U.S. 1976):*** We emphasize that the immunity of prosecutors from liability in suits

> under ***§ 1983*** does not leave the ***public powerless*** to deter misconduct or to punish that which occurs. This Court has ***never suggested*** that the policy considerations which compel civil immunity for ***certain governmental officials*** also place them beyond the reach of the criminal law. ***Even judges,*** cloaked with absolute civil immunity for centuries, could be punished criminally for ***willful*** deprivations of constitutional rights on the strength ***of 18 U.S.C. § 242,*** the criminal analog of ***§ 1983. O'Shea v. Littleton, 414 U.S. 488, 503 (1974); cf. Gravel v. United States, 408 U.S. 606, 627 (1972). The prosecutor would fare no better for his willful acts.*** Moreover, a prosecutor stands perhaps unique, among officials whose acts could deprive persons of constitutional rights, in his amenability to professional discipline by an association of his peers. These checks ***undermine the argument*** that the imposition of civil liability is the only way to insure that ***prosecutors are mindful*** of the constitutional rights of persons accused of crime.

By all means, Harris was denied effective and meaningful access to the court by the defendants' actions of failure to perform ***ministerial and inflexibly mandatory responsibilities,*** in which they are to be found liable under ***42 U.S.C.S. §1983*** for failure to perform ministerial duties. Harris cites the following to ***support*** that his First Amendment right to have access to the court is well known, and well established, therefore, ***there should be a legal remedy by suit if all federal actions are exhausted,*** please view the following which states in relevant part:

> ***Lewis v. Casey, 518 U.S. 343, at 360 (U.S. 1996):*** The United States Constitution does not require that prisoners (literate or illiterate) be able to conduct generalized research, ***but only that they be able to present their grievances to the courts*** -- a more limited capability that can be produced by a much more limited degree of legal assistance.
>
> ***Burns v. Ohio, 360 U.S. 252, at 256 (U.S. 1959): "It is the duty of the clerk of this court,*** in the absence of instructions from the court to the contrary, ***to accept for filing any paper presented to him,*** provided such paper is not scurrilous or obscene, is properly prepared and is accompanied by the requisite filing fee."
>
> ***McCray v. Maryland, 456 F.2d 1, at *4, *6 (4th Cir. 1972):*** In the instant case, in respect to filing papers, ***the clerk has no discretion that merits insulation by a grant of absolute immunity; the act is mandatory. Md.Ann.Code, Art. 17 § 1 (1957).*** His ***duty,*** although

associated with the court system, ***is not quasi-judicial (meaning entailing a discretion similar to that exercised by a judge). Clerical duties are generally classified as ministerial,*** ***2 Harper & James, The Law of Torts, 1644 (1956),*** and the act of filing papers with the court is ***as ministerial and inflexibly mandatory*** as any of the clerk's responsibilities.

If plaintiff's allegations are true, it is clear that his constitutionally based right of access to courts has been violated. ***See Boddie v. Connecticut, 401 U.S. 371, 376, 91 S. Ct. 780, 28 L. Ed. 2d 113 (1971) (access to courts protected by due process clause); Chambers v. Baltimore & Ohio Railroad Co., 207 U.S. 142, 28 S. Ct. 34, 52 L. Ed. 143 (1907) (access to courts is a privilege of American citizenship protected by the Fourteenth Amendment); Ginsburg v. Stern, 125 F. Supp. 596, 601 (W.D.Pa.1954) (clerk's failure to file papers would be a "patent" violation of constitutional rights) (dictum). Cf. California Motor Transport Co. v. Trucking Unlimited, 404 U.S. 508, 92 S. Ct. 609, 30 L. Ed. 2d 642 (1972) (access to courts is "part of the right to petition protected by the First Amendment").*** Of what avail is it to the individual to arm him with a panoply of constitutional rights if, when he seeks to vindicate them, ***the courtroom door can be hermetically sealed against him by a functionary who, by refusal or neglect, impedes the filing of his papers?*** Viewing plaintiff's complaint with the liberality customarily afforded pro se pleadings, ***Haines v. Kerner, 404 U.S. 519, 92 S. Ct. 594, 30 L. Ed. 2d 652 (1972),*** it is unmistakably clear from the face of the complaint that it sufficiently alleges that he was barred access to the courts. ***This denial of a constitutional right of momentous importance is redressable under section 1983.***

Bryant v. Tolbert, 2001 U.S. Dist. LEXIS 16533, at *15 (6th Cir.): It is well settled that ministerial duties are, in general, those obligations that attach to an office and ***do not require*** an exercise of judgment or discretion. ***Williams v. Payne, 73 F. Supp. 2d 785, 790 (E.D. Mich. 1999). A ministerial duty is one in respect to which nothing is left to discretion;*** it is simple, definite, arising under conditions admitted or proved to exist and imposed by law. ***Swan v. Clinton, 932 F. Supp. 8 (D.D.C. 1996) aff'd by 100 F.3d 973 (D.C. Cir. 1996).***

Harris broadcasts, ***clerical duties are classified as ministerial,*** meaning that they are like robots that accepts and dockets parties court filings. In the event a party's court filings are deficient and cannot be processed by the clerk, the clerk then is supposed to ***promptly*** notify the filing party

of the deficiency within the filing and notify that party of how or why the court filing can or cannot be processed. Harris has clearly demonstrated that the clerks ***did not do this in his case.*** Henceforth, the clerks' functions are ***"Ministerial-Operational"*** acts which involve the execution or implementation of a decision and entail ***only minor decision-making.*** As a result, Harris provides documentary evidence ***which maintains a sustainable and recognizable cause of action under §1983.***

Therefore, Hunt either ***knew or should have known*** that her actions were unlawful and in violation of Harris's protected U.S. Constitutional First Amendment Rights to have access to the court and to petition the court to get redress during his first and only federal habeas corpus proceedings. Forthwith, the defendant's in this case have ***unlawfully abridged or impaired*** Harris's rights to redress in federal court during his federal habeas corpus proceedings.

ACTUAL-INJURY REQUIREMENT

Now comes Plaintiff-Appellant Isaiah S. Harris Sr., (hereafter Harris), to hereby ***promulgate*** to the United States Supreme Court, that by being denied ***meaningful and effective*** access to the court during his ***first federal habeas corpus*** action has clearly kept him incarcerated for years as a ***direct result of the defendants' actions.*** Harris now proves his point by demonstrating that ***all*** the opinions of the federal court ***are against*** the doctrine of stare decisis, Sixth Circuit, and United States Supreme court precedents, ***in which Harris would surely gain federal habeas relief if Harris was afforded access to the court.*** For context, Harris explains the following are official opinions from ***Greg White,*** former prosecuting attorney for ***Lorain County (Ohio),*** then, United States District Court Magistrate Judge; and ***Sara Lioi,*** former judge of ***Stark County Court of Common Pleas (Ohio),*** now, United States District Court Judge; and ***defendant Deborah S. Hunt,*** now, ***Clerk of the United States Court of Appeals for the Sixth Circuit.***

The relevant portions of the opinions from the federal courts are as follows:

> See, ***Harris v. Clipper, 2015 U.S. Dist. LEXIS 187060, at *21 (6th Cir.):*** "Simply put, the evidence Harris would like to add now (and which he would have liked to present at trial) ***may or may not*** have had an impact on the trial judge's assessment of K.T.'s credibility. Issues of credibility are reserved to the finder of fact."
>
> See, ***Harris v. Cliper, 2017 U.S. Dist. LEXIS 88213, at *5 (6th Cir.):*** "At best, the evidence that petitioner points to now ***provides merely impeachment value,*** "which is ***not enough*** to present a valid claim of actual innocence."
>
> Also see, ***Sixth Circuit Clerk's Counterfeit unpublished order issued in Case No. 17-3326, at page 3:*** Although, the ***trial record shows that the prosecution did not disclose*** to Harris that K.T. had previously made domestic violence allegations against him, ***that the police determined were unfounded,*** the record also shows that Harris's attorney acquired the information independently before trial. Consequently, ***the prosecution's failure to disclose the impeachment evidence was harmless." See, Carter v. Bell, 218 F.3d 581, at 601 (6th Cir. 2000)*** *(Stating that there is* ***no Brady violation*** if the information was available to defendant from another source.) Additionally, K.T. ***admitted on cross-examination*** that she had ***previously lodged false domestic violence charges against Harris and that she was nearly charged with making a false complaint. See, Appendix B, fully incorporated herein.***

Harris again ***promulgates,*** that he has demonstrated that he meets the three prongs of a ***"true"*** Brady violation, in which states in relevant part:

> See, ***Strickler v. Greene, 527 U.S. 263, at 282 (U.S. 1999):*** There are three components of a true Brady violation: ***(1)*** The evidence at issue must be favorable to the accused, either because it is exculpatory, or because it is impeaching; ***(2)*** that evidence must have been suppressed by the State, either willfully or inadvertently; ***(3)*** and prejudice must have ensued.

Harris affirms, the federal courts' opinions ***hinge*** on a flagrant misrepresentation of the law deeply rooted in the doctrine that ***adds a 4th prong to the Brady analysis,*** which focuses on the ***defendant's actions*** in stark contrast to the actual law, which strictly focuses on the prosecution's actions. See, ***Dennis v. Sec'y, Pa. Dep't of Corr., 834 F.3d 263, at 290-293 (3rd Cir.***

2016); quoting ***Banks v. Dretke, 540 U.S. 668, at 695-696 (U.S. 2004);*** compare ***United States v. Tavera, 719 F.3d 705, at 711-712 (6th Cir. 2013).***

With this in mind, see, ***United States v. Tavera, 719 F.3d 705, at 711-712 (6th Cir. 2013)*** states in part:

> This ***"due diligence"*** defense places the burden of discovering exculpatory information on the defendant and releases the prosecutor from the duty of disclosure. ***It relieves the government of its Brady obligations.*** In its latest case on the issue, however, the ***Supreme Court rebuked*** the Court of Appeals for relying on such a due diligence requirement ***to undermine the Brady rule.***

Comparatively, a blatant Brady violation revealed within the trial transcripts as in Harris's case ***cannot*** be cure by having a reviewing panel say, ***"there is no Brady violation,"*** any more than a venomous snakebite can be cured by having the victim say, ***"I was not bitten."*** A rote call-and-response recitation of ***Carter v. Bell, 218 F.3d 581, at 601 (6th Cir. 2000)*** is nothing more than a charade in such a context, in an effort to whitewash the trial court's original sins.

First thing to remember, that pursuant to ***Giglio*** impeachment valued evidence ***is enough*** to present a valid claim of actual innocence, when the government's case ***depends*** almost entirely on a witness's testimony, without which, there could be ***no*** indictment and ***no*** evidence to carry the case to a jury. See ***Giglio v. United States, 405 U.S. 150, at 154-155 (U.S. 1972)*** which states in relevant part:

> Here the Government's case ***depended almost entirely*** on Taliento's testimony; ***without it*** there could have been ***no*** indictment and ***no*** evidence to carry the case to the jury. Taliento's ***credibility*** as a witness was therefore an important issue in the case, and evidence of any understanding or agreement as to a future prosecution would be ***relevant to his credibility*** and the jury was ***entitled to know of it.***

Truly, Harris asserts, ***outcome-determinative*** constitutional error in the ***context*** of the documented ***Brady*** violation on record. Harris further proves his point by demonstrating that ***all***

the opinions of the federal courts ***are against*** the doctrine of stare decisis, Sixth Circuit, and United States Supreme Court precedent, in which Harris would surely gain federal habeas relief. The relevant portion of the aforementioned are stated as follows:

> "Issues of concerning the admissibility of evidence are state law questions and not open to challenge on collateral review unless the ***fundamental fairness of the trial*** has been so impugned as to ***amount to denial of due process.***" See, ***Bell v. Arn, 536 F.2d 123 (6th Cir. 1976);*** compare ***Brofford v. Marshall, 751 F.2d 845, at 857 (6th Cir. 1985)***

> ***"To prevail*** on his Brady claim, Wearry need not show that he "more likely than not" would have been acquitted had the new evidence been admitted. ***Smith v. Cain, 565 U.S. 73, 75, 132 S. Ct. 627, 630, 181 L. Ed. 2d 571, 574 (2012) (internal quotation marks and brackets omitted). He must show*** only that the new evidence is sufficient to ***"undermine confidence"*** in the verdict. ***Ibid.*** Given this legal standard, ***Wearry can prevail even if,*** as the dissent suggests, the undisclosed information ***may not*** have affected the jury's verdict". See, ***Wearry v. Cain, 136 S. Ct. 1002, at 1006 n.6. (U.S. 2016);*** compare ***Barton v. Warden, S. Ohio Corr. Facility, 786 F.3d 450, at 468 (6th Cir. 2015)***

By the same token, Harris affirms, that the ***"undermine confidence"*** standard is ***analogous*** to the actual innocence ***Schlup*** requirements for ***first time habeas petitioners*** like Harris to overcome ***28 U.S.C.S. §2244(d)(1)(D),*** Harris cites the following controlling precedent as follows:

> See, ***House v. Bell, 547 U.S. 518, at 537-538 (U.S. 2006):***[2] "Yet a petition supported by a convincing ***gateway*** showing raises sufficient doubt about the petitioner's ***guilt to undermine confidence*** in the result of the trial without the assurance that the trial was untainted by constitutional error; hence, ***a review of the merits*** of the constitutional claims is ***justified." (added emphasis)***

[2] The ***gateway actual-innocence standard*** for habeas corpus relief ***is by no means equivalent to the standard which govern claims of insufficient evidence.*** When confronted with a challenge based on trial evidence, courts presume the jury resolved evidentiary disputes reasonable so long as sufficient evidence supports the verdict. Because an actual-innocence claim involves evidence the trial court did not have before it, ***the inquires the federal court to assess how reasonable jurors would react to the overall,*** newly supplemented record. If new evidence so requires, ***this may include consideration of the credibility of the witnesses presented at trial.***

> See, ***McQuiggin v. Perkins, 569 U.S. 383, at 395, 397, 399 (U.S. 2013):***[3] The miscarriage of justice exception, we underscore, applies to a severely confined category: cases in which new evidence shows "it is more likely than not that no reasonable juror would have convicted [the petitioner]." ***Schlup, 513 U.S., at 329, 115 S. Ct. 851, 130 L. Ed. 2d 808 (internal quotation marks omitted).*** Section ***2244(d)(1)(D)*** is both modestly more stringent (because it requires diligence) and dramatically less stringent ***(because it requires no showing of innocence).*** Many petitions that could not pass through the actual-innocence gateway will be timely or not measured by ***§2244(d)(1)(D)'s*** triggering provision. ***That provision, in short, will hardly be rendered superfluous by recognition of the miscarriage of justice exception.***
>
> While formally distinct from its argument that ***§2244(d)(1)(D)'s*** text forecloses a late-filed claim alleging actual innocence, the State's contention makes scant sense. Section ***2244(d)(1)(D)*** requires a habeas petitioner to file a claim within one year of the time in which new evidence "could have been discovered through the exercise of due diligence." ***It would be bizarre to hold*** that a habeas petitioner who asserts a convincing claim of actual innocence may overcome the statutory time bar ***§2244(d)(1)(D)*** erects, yet simultaneously encounter a ***court-fashioned diligence barrier*** to pursuit of her petition. See ***670 F. 3d, at 673*** ("Requiring reasonable diligence effectively makes the concept of the actual innocence gateway redundant, since petitioners . . . seek [an equitable exception only] when they were not reasonably diligent in complying with ***§2244(d)(1)(D).").***

With this in mind, Harris further cites relevant case authority to support his legal claim of present to the court ***outcome-determinative*** constitutional error, in which states as follows:

> See, ***Robinson v. Mills, 592 F.3d 730, at 736, 737 (6th Cir. 2010):*** As this Court has observed,***"[c]onsiderable authority*** from the Supreme Court and our court indicates that a defendant suffers prejudice from the withholding of favorable impeachment evidence when the prosecution's case ***hinges*** on the testimony of ***one witness."*** ***Harris v. Lafler, 553 F.3d 1028, 1034 (6th Cir. 2009).***

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[3] The more rational inference to draw from Congress' incorporation of a modified version of the miscarriage of justice exception in ***§§2244(b)(2)(B) and 2254(e)(2)*** is simply this: In a case ***not governed*** by those provisions, ***i.e., a first petition for federal habeas relief, the miscarriage of justice exception survived AEDPA's passage intact and unrestricted.***

Also, see ***Mathis v. Berghuis, 90 Fed. Appx. 101, (6th Cir. 2004)***, for a ***direct comparison*** to Harris's case where the State's witness had a history of filing false charges, ***too,*** which states in relevant part:

> A jury found the inmate ***guilty of two counts of criminal sexual misconduct.*** Following the guilty verdict, ***the inmate discovered that the victim had filed a number of police reports prior to the one underlying his conviction. Two of these reports were of particular interest: they involved highly dubious--if not patently false--allegations that she was a victim of violent crimes including rape and armed robbery. The new evidence obtained by the inmate formed the heart of this dispute.*** The inmate moved for a new trial, claiming that this evidence from prior police reports was impeachment evidence that the prosecutor had been required to turn over to under Brady. Based on this new evidence, a judge issued a writ of habeas corpus ordering a new trial or release. ***The instant court found that had the jury been aware of this impeaching evidence, there was a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different.***

Harris humbly asserts, ***the decisions of the federal courts'*** has made a ***mockery*** of the government's Brady obligations, ***in like manner*** Harris's constitutionally protected due process rights, ***and continues to erode the federal judiciary's independence, impartiality, integrity, and competence.***

Notably, Harris has clearly demonstrated that ***all federal courts*** that have opined on his ***Brady*** claim has clearly got it wrong. In fact, there is ***enough information*** in those federal opinions to warrant the grant of a ***prima facie*** federal habeas relief, if that even exists. Moreover, the defendants' have effectively denied Harris access to the court for ***six-long-years.*** Unsurprisingly, in which has kept him incarcerated as a ***direct result*** of the defendants' actions, as highlighted in this case, ***where Harris has a liberty interest at stake without a federal course of action for relief.*** To put it another way, this point is further made apparent in light of the ***very low threshold*** Harris had to overcome to proceed in federal COA proceedings, as explained here:

> See, ***Buck v. Davis, 137 S. Ct. 759, at 773 (U.S. 2017)***: ***A state prisoner*** whose petition for a writ of habeas corpus is denied by a federal district court does not enjoy an absolute right to appeal. Federal law requires that he first obtain a COA from a circuit justice or judge. ***28 U. S. C. §2253(c)(1).*** A COA may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." ***§2253(c)(2).*** Until the prisoner secures a COA, the court of appeals may not rule on the merits of his case. ***Miller-El v. Cockrell, 537 U. S. 322, 336, 123 S. Ct. 1029, 154 L. Ed. 2d 931 (2003).***
>
> The COA inquiry, we have emphasized, is not coextensive with a merits analysis. At the COA stage, the only question is whether the applicant has shown that ***"jurists of reason could disagree with the district court's resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further."*** ***Id., at 327, 123 S. Ct. 1029, 154 L. Ed. 2d 931.*** This threshold question should be decided ***without*** "full consideration of the factual or legal bases adduced in support of the claims." ***Id., at 336, 123 S. Ct. 1029, 154 L. Ed. 2d 931.*** "When a court of appeals sidesteps [the COA] process by first deciding the merits of an appeal, and then justifying its denial of a COA based on its adjudication of the actual merits, ***it is in essence deciding an appeal without jurisdiction."*** ***Id., at 336-337, 123 S. Ct. 1029, 154 L. Ed. 2d 931.***

For this reason, Harris further cite Sixth Circuit case authourity to demonstrate that he has ***standing to litigate*** an access to the court claim against federal clerks for failure to execute the ministerial duty of their office. See the follow:

> See, ***Anthony v. Walker, 2008 U.S. Dist. LEXIS 76742, at *8 (6th Cir.)***: The right of access only applies to cases which attack the inmate's conviction and sentence or cases which challenge the conditions of confinement, such as the instant case. ***Lewis v. Casey, 518 U.S. 343, 349-51, 116 S. Ct. 2174, 135 L. Ed. 2d 606 (1996).*** In ***Lewis v. Casey,*** the Supreme Court held that inmates claiming a denial of the right of access to the courts must show ***"actual injury"*** in order to have standing to bring suit. ***Id. at 349.*** Actual injury or prejudice can only be suffered where an inmate has a meritorious claim to bring. Therefore, "only prisoners with ***non-frivolous*** underlying claims can have standing to litigate an access-to-courts action." ***Hadix v. Johnson, 182 F.3d 400, 405 (6th Cir. 1999) (citing Lewis v. Casey, supra.)***

On the positive side, Harris has provided this court with the basis to settle ***Antoine*** in harmony with ***Bivens***. Today, we are living in a time of uncertainty where injurious anomalies can become common place, if those who have been charged to uphold, defend, and preserve our constitution, fail to act. Harris case presents a claim for a corresponding cause of action for a claim ***never contemplated or anticipated*** by Congress, where a federal clerk completely suspends an inmate's habeas petition, when it appears that he has the winning argument in hand. Thus, keeping him in prison for years without any legal remedy, but to file suit under ***§1983***. In like manner, Congress could ***never contemplate or anticipate*** that a Supreme Court Clerk could or would leak an unpublished opinion that overturns a controversial 50-year precedent.

On the positive side, Harris reminds this court in full view of the public, that it has a history to deny even prosecuting attorneys' absolute immunity on the basis of a functional approach, please view the following:

> See, ***Kalina v. Fletcher, 522 U.S. 118 (U.S. 1997)***: Prosecuting attorney was ***not entitled to absolute immunity*** with regard to a making allegedly false statements to support the issuance of an arrest warrant because the prosecutor was ***functioning*** as a complaining witness rather than an advocate.
>
> See, ***Buckley v. Fitzsimmons, 509 U.S. 259 (U.S. 1993)***: Prosecutors accused of violating a murder suspect's civil rights by fabricating evidence and making false statements ***did not have absolute immunity from liability.***

In closing, Harris supports his legal conclusion with the brilliant words of the late Supreme Court Justice Stevens, which states in relevant part in ***Antoine v. Byers & Anderson, 508 U.S. 429, at 437 (U.S. 1993)***:

> Finally, ***respondents argue*** that strong policy reasons support extension of absolute immunity to court reporters. According to respondents, given the current volume of litigation in the federal courts, some reporters inevitably will be unable to meet deadlines. ***Absolute immunity would help to protect the entire judicial process***

> ***from vexatious lawsuits brought by disappointed litigants when this happens.*** Requiring court reporters to defend against allegations like those asserted here, on the other hand, would not only be unfair, but would also aggravate the problem by contributing further to the caseload in the federal courts.
>
> ***Assuming the relevance of respondents' policy arguments, we find them unpersuasive for three reasons.*** ***First,*** our understanding is that cases of this kind are relatively rare. Respondents have not provided us with empirical evidence demonstrating the existence of any significant volume of vexatious and burdensome actions against reporters, even in the Circuits in which reporters are not absolutely immune. See ***n.3, supra.*** ***Second***, if a large number of cases does materialize, and we have misjudged the significance of this burden, then a full review of the countervailing policy considerations by the Congress ***may result in appropriate amendment to the Court Reporter Act.*** ***Third,*** and most important, ***we have no reason to believe that the Federal Judiciary,*** which surely is familiar with the special virtues and concerns of the court reporting profession, ***will be unable to administer justice to its members fairly.***

Not... but also, Harris was denied effective and meaningful access to the court with a dead-bang-winning-argument for over six long years during his ***first and only*** federal habeas petition. Furthermore, Harris has ***suffered irreparable harm*** because his argument is lost forever for his ***first*** federal habeas petition due to defendants' failure to carry out mere ministerial act(s).

Succinctly put, Harris wants to know, is it too much to ***ask*** a federal clerk of court to file and docket his filings, so, that qualified Judges or Justices can decide the merits of his case with the relevant case authority?

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CONCLUSION

Plaintiff-Appellant Isaiah S. Harris Sr., has clearly ***established*** that this court has a constitutional duty to exercise its discretion to remand this case to the Federal District Court with instructions to ***reinstate*** the lawsuit against federal clerks and executives for failure to perform ministerial duties, in which denied Harris meaningful and effective access to the court in federal habeas corpus proceedings.

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