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.

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

CERTIFICATION OF COUNSEL OR PARTY UNREPRESENTED

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

Pro se Litigant

Elizabeth B. Prelogar,
Room 5614, Department of Justice,
950 Pennsylvania Ave., N.W.,
Washington, DC. 20530-0001

CERTIFICATE OF COUNSEL OR PARTY UNREPRESENTED

I, Isaiah S. Harris Sr., do declare that to the best of petitioner's ability and understanding he has complied with all ***United States Supreme Court Rules,*** in good faith and without delay, to present grounds of intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented to this court with of claims Constitutional Civil Rights violations, that the United States Court of Appeals for The Sixth Circuit has decided an important question of federal law that has not been, ***but should be,*** settled by this Court, in relation to the expansion of the ***Bivens*** claims pursuant to the First Amendment.

I declare under penalty of perjury that the forging is true and correct pursuant to ***28 U.S.C.S. §1746.***

Executed on February 23, 2024.

Prepared by,

Isaiah S. Harris Sr.

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

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CERTIFICATE OF COMPLIANCE

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CERTIFICATE OF COMPLIANCE

I, Isaiah S. Harris Sr., do declare that as required by ***United States Supreme Court Rule 33.1(h).*** I certify, that the Rehearing of Writ of Certiorari contains 12 pages excluding the parts of the Writ that are exempted by ***United States Supreme Court Rule 33.1(d).***

I declare under penalty of perjury that the forging is true and correct pursuant to ***28 U.S.C.S. §1746.***

Executed on February 23, 2024.

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PROOF OF SERVICE

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PROOF OF SERVICE

I, Isaiah S. Harris Sr., do declare that on this date of February 23, 2023, as required by United States ***Supreme Court Rule 29*** the enclosed Rehearing of Writ of Certiorari was served on each party to the above proceeding or that party's counsel, and every other person required to be served, by depositing an envelope containing the above document in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3-calendar days.

The names and addresses of those served are as follows:

Elizabeth B. Prelogar, Room 5614, Department of Justice, 950 Pennsylvania Ave., N.W., Washington, DC 20530-0001

I declare under penalty of perjury that the forging is true and correct pursuant to ***28 U.S.C.S. §1746.***

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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 February 23, 2024

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

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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

Grounds of Intervening Circumstances of a Substantial or Controlling Effect or to Other Substantial Grounds Not Previously Presented

Now comes Plaintiff-Appellant Isaiah S. Harris Sr., (hereinafter Harris), to hereby ***notify*** the United States Supreme Court of its ***ethical and legal duty*** to grant Harris's Writ of Certiorari because the United States Court of Appeals for the Sixth Circuit has ***conceded to the merits*** of Harris's case, but did not grant relief because this court has ***yet*** 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***, pursuant to the First Amendment right to access the court to get redress during federal habeas corpus proceedings.

Harris presents to this court that this is the easiest case for this to decide where the Circuit court has admitted on the record that the Sixth Circuit Clerk Deborah S. Hunt is not immune from being held liable under ***§1983***, but made a disgraceful ruling against Harris's claims on this basis of that: ***(1)*** this court has ***never*** recognized a cause of action as it relates to the First Amendment Access-to-the-Court ***(2) and because*** Harris is a prisoner. See, ***Harris v. Hunt, 2023 U.S. App. LEXIS 29468, at *2 (6th Cir. 2023)*** or ***Appendix A*** which state in relevant part as the basis to not grant Harris relief in this matter before the court on certiorari:

> we affirm the district court's dismissal of Harris's complaint, ***albeit for different reasons.*** See ***Seaton v. TripAdvisor LLC, 728 F.3d 592, 601 n.9 (6th Cir. 2013)*** ("[W]e may affirm the district court's judgment on any basis supported by the record.").
>
> Harris's complaint failed to state a claim against the defendants ***because*** the United States Supreme Court has ***never recognized*** a Bivens cause of action for ***prisoners*** who claim that officers and employees of the federal judiciary have violated their constitutional rights.

Significantly, Harris has clearly pointed out to the United States Supreme Court that this is a dog-whistle blown by the Sixth Circuit court, that ***prisoners don't have*** a cause of action against

federal clerks and employees, or a means by which to discourage wrong doing committed when it occurs. This notion flies in the face of justice and has made a mockery of the American Judicial System as a whole. Most pointedly, in light of the fact that prisoners have a well-established First Amendment Right to Access-to-the-Court. See, ***Bounds v. Smith, 430 U.S. 817, 821, 97 S. Ct. 1491, 52 L. Ed. 2d 72 (1977),*** compare ***Lewis v. Casey, 518 U.S. 343, 349, 116 S. Ct. 2174, 135 L. Ed. 2d 606 (1996)*** in support of the point made by Harris that prisoners have a well-established First Amendment Right to Access-to-the-Court.

For this reason, there should be a cause of action under ***§1983*** no matter who violated the protected rights of prisoners' Access-to-the-Court. See the following ***bedrock*** case authority in support of the aforementioned notion expressed by Harris to this court:

> ***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.

Furthermore, if Harris was under the jurisdiction of the United States Court of Appeals for the Fourth Circuit, he would be better suited to argue before this court on certiorari in light of ***McCray v. Maryland, 456 F.2d 1, at *4, *6 (4th Cir. 1972)***, because the Fourth Circuit clearly understands the magnitude of this issue. The Fourth Circuit acknowledges, "the denial of a constitutional right of ***momentous importance*** is redressable under section ***1983."*** Where ***plaintiff prisoner*** brought an action under ***42 U.S.C.S. § 1983*** against defendant State, ***alleging that the clerk of court was negligent in filing the prisoner's petition for state postconviction relief.*** The United States district court dismissed the prisoner's action, holding that the clerk was absolutely

immune from suit because he was a "quasi-judicial" officer and was cloaked with judicial immunity. The ***prisoner*** sought review, and the Fourth Circuit concluded:

> ***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.***

For this reason, the United States Supreme Court has an ***ethical and legal duty*** to grant Harris's Writ of Certiorari because the United States Court of Appeals for the Sixth Circuit has already ***conceded to the merits*** of Harris case, but then relied on the fact that this court only accepts review of 80-cases out of 10,000 that are filed in this court every term. Further, the Sixth Circuit

also relied on misguided case authority that places ***federal actors*** beyond the reach of the law civilly and criminally for their willful actions of breaking the law. In essence, the Sixth Circuit wants the public to believe that it will take an act of congress for inmates to able to hold ***recalcitrant*** federal employees accountable for their willful unlawful conduct.

See, ***Elhady v. Unidentified CBP Agents, 18 F.4th 880, at 882-83 (6th Cir.)*** in which supports the Sixth Circuit Court misleading dismissal of Harris's very serious claims. Harris asserts that there is ***no material comparison*** to be made to Elhady's case. In essence Elhady tried to sue federal employees because he was left outside in the cold for a few hours:

> Elhady later sued several border-patrol officers, including Blake Bradley, the lead officer assigned to his case. Elhady argues that the officers detained him under conditions that violated his Fifth Amendment due-process rights. And he seeks monetary damages under ***Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388, 91 S. Ct. 1999, 29 L. Ed. 2d 619 (1971).***

Harris, agrees with the Sixth Circuit that no court should extend ***Bivens*** in the context that ***Elhady's*** case presents, because the plaintiff suffered no measurable damages for being left outside in the cold for hours. On the other hand, the seriousness of the facts in Harris's case pales in comparison to ***Elhady*** because the damages that was incurred in Harris's case can be measured in years. Thus, Harris maintains that it shouldn't have to take an act of Congress to expand ***Bivens*** in Harris's context where Sixth Circuit Clerk Deborah S. Hunt ***acted in ultra vires*** by single handedly unlawfully suspending an inmate's habeas corpus petition after the case was timely filed and issued a case number ***17-3326,*** and when it appears he has the winning argument in hand.

Nevertheless, this court must apply the ***two-part standard*** of review and resolve this very serious matter once and for all in full view of the public this term while this court decides similar

important issues related to former President Donald J. Trump to see whether or not a former President is placed beyond the reach of the law, ***too.***

See, ***Elhady v. Unidentified CBP Agents, 18 F.4th 880, at 883 (6th Cir.)*** for the two-part analysis that this court must apply to Harris's case to extend ***Bivens*** for the context Harris's case presents:

> To ensure respect for these foundational principles, the Supreme Court devised a ***two-part inquiry*** to determine when we should engage in the "disfavored judicial activity" of recognizing a new Bivens action. See id. And under this exacting test, the answer will ***almost*** always be never.
>
> ***First,*** we ask whether the claim arises in a new Bivens context. And our "understanding of a 'new context' is broad." ***Hernandez II, 140 S. Ct. at 743***. The context is new if it differs in virtually any way from the Bivens trilogy. ***Abbasi, 137 S. Ct. at 1859.***
>
> If the context does differ, ***we move to the second question:*** whether any special factors counsel against extending a cause of action. ***Id. at 1860.*** The Supreme Court has "not attempted to create an exhaustive list of factors," but it has explained that the separation of powers should be a guiding light. ***Hernandez II, 140 S. Ct. at 743 (cleaned up) (quoting Abbasi, 137 S. Ct. at 1857).*** For that reason, the Court has told us that we must not create a cause of action if there's ***"a single sound reason"*** to leave that choice to Congress. ***Nestlé USA, Inc. v. Doe, 141 S. Ct. 1931, 1937, 210 L. Ed. 2d 207 (2021).*** That's because we're not well-suited to decide when the costs and benefits weigh in favor of (or against) allowing damages claims. ***Cf. Abbasi, 137 S. Ct. at 1857-58.*** And trying to make those decisions would disrespect our limited role under the Constitution's separation of powers, even if we think it would be good policy to do so. ***Hernandez II, 140 S. Ct. at 741.***

Most pointedly, Harris asserts that in light of the aforementioned two-part analysis that this court must apply to his case to extend ***Bivens*** within the context of facts Harris's case presents; seriously speaking all nine Justices of the United States Supreme Court would be hard pressed to find ***"one single sound reason"*** to not create a cause of action to protect prisoners' well-

established-constitutional-rights-to-have-access-to-the-court. Especially, in light of that fact that prisoners are the most vulnerable amongst American citizens to have this right violated.

Harris, wants to remind this court of its historical role to protect each and every American citizen when the need arises for issues not anticipated or contemplated by Congress. For this reason, the United States Supreme Court has an ***ethical and legal duty*** to grant Harris's Writ of Certiorari in light of the principles of law dating back to this nation's foundation as explained here 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."***
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> ***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.

For this reason, Harris further cites 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 former President would knowingly commit crimes while in office in furtherance to retain possession of that office. This Court is our nation's last hope to preserve the constitution and send a message to the world that in America: "***no one is beyond the reach of the law"*** including federal clerks of court who violate the law by ***acting in ultra vires.***

Please, view the following cases that this court just decided last week. Where this court, this term, has demonstrated that ***its integrity is intact*** to decide merits that Harris's case presents:

> ***Murray v. UBS Sec., LLC, 144 S. Ct. 445, (U.S. 2024):*** Former employee of a securities firm was erroneously required to prove retaliatory intent to establish a whistleblowing claim under the ***Sarbanes-Oxley Act of 2002, 18 U.S.C.S. § 1514A(a).*** The employee was required to prove that his protected activity was a contributing factor in the unfavorable personnel action, but not retaliatory intent.
>
> ***Dep't of Agric. Rural Dev. Rural Hous. Serv. v. Kirtz, 144 S. Ct. 457:*** Fair Credit Reporting Act effected a clear waiver of federal government's sovereign immunity as ***15 U.S.C.S. §§ 1681n*** and ***1681o*** authorized consumer suits for money damages against any person who willfully or negligently did not comply with ***15 U.S.C.S. § 1681s-2, and 15 U.S.C.S. § 1681a*** defined the term person to include any governmental agency.

In closing, Harris supports his legal conclusion: "that no one is beyond the reach of the law, and it should be a corresponding cause of action under ***§1983*** for the well-established-constitutional-rights-to-have-access-to-the-court"; 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.***

Most notably, petition for rehearing of denial of petition for certiorari was part of appellate procedure authorized by Rules of Supreme Court, subject to requirements of predecessor to Rule 44 on rehearings; right to such consideration was ***not to be deemed an empty formality*** as though such petitions would as matter of course be denied; denial of petition for certiorari should not be treated as definitive determination in Supreme Court, subject to all consequences of such an interpretation. See, ***Flynn v. United States, 75 S. Ct. 285, 99 L. Ed. 1298 (1955).***

Not only… 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).

Prepared by,

Isaiah S. Harris Sr.

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

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.

Prepared by,

Isaiah S. Harris Sr.

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

INDEX TO APPENDIXES

Appendix A- Sixth Circuit Court's November 3, 2023 Order Appendix B- Sixth Circuit Court Clerks unpublished COA Order Appendix C- §2253(c)(1)(c)(2) Appendix D- Cir. R. 25(d)(3) Appendix E- Cir. R. 45 Appendix F- Defendant Higgins, November 9, 2018 correspondence Appendix G- Plaintiff Harris' affidavit Appendix H- Defendant Higgins' second letter dated February 15, 2019 Appendix I- 2019 proof of postage for Application to Justice Kagan Appendix J- 2020 proof of postage of follow up letter for Application to Justice Kagan Appendix K- Supreme Court Rule 14.5 Appendix L- Supreme Court Rule 39.8	Appendix M- March 3, 2022 Plaintiff Harris's COA proof of postage Appendix N- March 14, 2022 Defendant John Doe signed for the U.S. Certified Mail Appendix O- May 11, 2022 Motion to Recall the Mandate proof of postage Appendix P- Two Published Sixth Circuit Orders before Judges Appendix Q- Two Published Sixth Circuit COA's before Judges Appendix R- Defendant Higgins' 2021 correspondence about Harris's letter to Justice Kavanaugh Appendix S- Defendant Higgins' April 21, 2022 correspondence about Mandamus Rehearing on Defendant Hunt; Plaintiff Harris's letter in response; and Supreme Court Rule 44 Appendix T- Sixth Circuit Court's February 22, 2023 response to the March 3, 2022 petition

Harris relies and hereby fully incorporates all exhibits as indicated in the index to appendixes to support and get redress in this court of his protected constitutional rights.

I declare under penalty of perjury that the forging is true and correct pursuant to ***28 U.S.C.S. §1746***.

Executed on February 23, 2024.

Prepared by,

Isaiah S. Harris Sr.

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

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

JOINT APPENDIX

A-T

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

Appendix A

(Sixth Circuit Court's November 3, 2023 Order)

3-pages

NOT RECOMMENDED FOR PUBLICATION

No. 22-4028

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

ISAIAH S. HARRIS SR.,	)	
	)	
Plaintiff-Appellant,	)	
	)	ON APPEAL FROM THE UNITED
v.	)	STATES DISTRICT COURT FOR
	)	THE NORTHERN DISTRICT OF
DEBORAH S. HUNT, et al.,	)	OHIO
	)	
Defendants-Appellees.	)	

ORDER

Before: SUTTON, Chief Judge; SUHRHEINRICH and DAVIS, Circuit Judges.

Isaiah Harris, a pro se Ohio prisoner, appeals the district court's judgment dismissing his federal civil rights complaint upon initial screening under 28 U.S.C. § 1915(e)(2). Harris moves the court to take judicial notice of certain facts related to his case. This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. *See* Fed. R. App. P. 34(a). For the reasons that follow, we affirm the district court's judgment and deny as moot Harris's motions to take judicial notice.

Harris filed a federal civil rights complaint for money damages under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971),[1] in the district court against various officers and employees of the United States Supreme Court and the Sixth Circuit Court of Appeals, raising claims under the First, Fifth, and Fourteenth Amendments, the Privileges and Immunities Clause, and 18 U.S.C. § 242. Harris claimed that the defendants' failure or refusal

[1] Harris actually filed his complaint under 42 U.S.C. §§ 1983, 1985, 1986, and 1988. But because he sued federal officers and employees only, we construe the complaint as arising under *Bivens*. *See Hartman v. Moore*, 547 U.S. 250, 254 n.2 (2006).

to file various motions and pleadings related to his 28 U.S.C. § 2254 habeas corpus petition violated his rights to due process, equal protection, and access to the courts. Harris also filed state-law loss-of-consortium claims on behalf of himself and his children.

The district court concluded that, as officers or employees of the federal courts, the defendants were entitled to absolute quasi-judicial immunity from suit and dismissed Harris's federal claims against the defendants under § 1915(e)(2)(B). The court declined to exercise supplemental jurisdiction over Harris's state-law claims and dismissed those claims without prejudice.

Under § 1915(e)(2)(B), a district court must dismiss any action that "fails to state a claim for relief" or that "seeks monetary relief against a defendant who is immune from such relief." And on de novo review, *see Flanory v. Bonn*, 604 F.3d 249, 252 (6th Cir. 2010), we affirm the district court's dismissal of Harris's complaint, albeit for different reasons. *See Seaton v. TripAdvisor LLC*, 728 F.3d 592, 601 n.9 (6th Cir. 2013) ("[W]e may affirm the district court's judgment on any basis supported by the record.").

Harris's complaint failed to state a claim against the defendants because the United States Supreme Court has never recognized a *Bivens* cause of action for prisoners who claim that officers and employees of the federal judiciary have violated their constitutional rights. *See Elhady v. Unidentified CBP Agents*, 18 F.4th 880, 882-83 (6th Cir. 2021), *cert. denied*, 143 S. Ct. 301 (2022); *see also Callahan v. Fed. Bureau of Prisons*, 965 F.3d 520, 523 (6th Cir. 2020) ("[T]he Court has never recognized a *Bivens* action for *any* First Amendment right.") (emphasis added). And subjecting the government to the costs and burdens of defending lawsuits arising out of the day-to-day operations of the clerk of court's office is a "special factor" that counsels against implying a new *Bivens* cause of action in this context. *See Elhady*, 18 F.4th at 883 (stating that federal courts are "not well-suited to decide when the costs and benefits weigh in favor of (or against) allowing damages claims"); *Marinaccio v. United States*, No. 21-11167, 2022 WL 2833960, at *8 (D.N.J. July 20, 2022) (declining to extend *Bivens* to the plaintiff's First Amendment access-to-the-court claim against a district court clerk of court). And the United States is entitled to sovereign

immunity from suit to the extent that Harris sued the defendants in their official capacities. *See Muniz-Muniz v. U.S. Border Patrol*, 741 F.3d 668, 671 (6th Cir. 2013).

To the extent that Harris attempted to sue the defendants under 18 U.S.C. § 242, which makes it a crime to willfully violate someone's constitutional rights, the district court correctly concluded that a private cause of action was not available to him. *See United States v. Oguaju*, 76 F. App'x 579, 581 (6th Cir. 2003).

Finally, the standard practice is for district courts to decline jurisdiction over a plaintiff's supplemental state-law claims and dismiss them without prejudice after granting judgment to the defendants on his federal claims. *See Burnett v. Griffith*, 33 F.4th 907, 915 (6th Cir. 2022). In any event, Harris does not contest the district court's dismissal of his state-law claims. Consequently, he has forfeited that issue on appeal. *See Geboy v. Brigano*, 489 F.3d 752, 767 (6th Cir. 2007).

For these reasons, we **AFFIRM** the district court's judgment dismissing Harris's complaint. We **DENY** Harris's motions to take judicial notice as moot.

ENTERED BY ORDER OF THE COURT

Kelly L. Stephens

Kelly L. Stephens, Clerk

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

No. 22-4028

ISAIAH HARRIS,

Plaintiff-Appellant,

v.

DEBORAH S. HUNT, et al.,

Defendants-Appellees.

Before: SUTTON, Chief Judge; SUHRHEINRICH and DAVIS, Circuit Judges.

JUDGMENT

On Appeal from the United States District Court
for the Northern District of Ohio at Cleveland.

THIS CAUSE was heard on the record from the district court and was submitted on the briefs without oral argument.

IN CONSIDERATION THEREOF, it is ORDERED that the judgment of the district court is AFFIRMED.

ENTERED BY ORDER OF THE COURT

Kelly L. Stephens

Kelly L. Stephens, Clerk

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT
100 EAST FIFTH STREET, ROOM 540
POTTER STEWART U.S. COURTHOUSE
CINCINNATI, OHIO 45202-3988

Kelly L. Stephens
Clerk

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Filed: November 27, 2023

Ms. Sandy Opacich
Northern District of Ohio at Cleveland
801 W. Superior Avenue
Suite 100 Carl B. Stokes U.S. Courthouse
Cleveland, OH 44113-1830

Re: Case No. 22-4028, *Isaiah Harris v. Deborah Hunt, et al*
Originating Case No. : 1:22-cv-01255

Dear Ms. Opacich,

Enclosed is a copy of the mandate filed in this case.

Sincerely yours,

s/Mackenzie Collett
For Gretchen Abruzzo

cc: Mr. Isaiah Harris

Enclosure

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

No: 22-4028

Filed: November 27, 2023

ISAIAH HARRIS

Plaintiff - Appellant

v.

DEBORAH S. HUNT; CLARENCE MADDOX; SUSAN S. ROGERS; MARC THERIAULT; JULIE A. COBBLE; AMY [UNKNOWN]; JOHN DOES 1-10; JANE DOES 1-10; CLAYTON HIGGINS, JR.; SCOTT S. HARRIS, in their individual and official capacities

Defendants - Appellees

MANDATE

Pursuant to the court's disposition that was filed 11/03/2023 the mandate for this case hereby issues today.

COSTS: None