

NOV 01 2023

OFFICE OF THE CLERK

No. 23-6329

IN THE

SUPREME COURT OF THE UNITED STATES

Russell G. Finnegan — PETITIONER, *pro se*
(Your Name)

vs.

David L. Chidester — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court Of Appeals For The Seventh Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Russell Grant Finnegan #289421
(Your Name)

Indiana State Prison, 1 Park Row
(Address)

Michigan City, IN 46360
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. Are the orders from the Court of Appeals valid absent an authorized signature of a judicial officer?
2. Is the Seventh Circuit Court of Appeals opinion in *Newlin v. Helman*, 123 F.3d 429, 434 (7th Cir. 1997) contrary to law of 28 U.S.C. Sec. 1915?
3. Did I fail to identify a good faith issue in my memorandum in support of motion for leave to proceed on appeal in *Forma payperis*?
4. Did the District Court with deliberate indifference contrary to its own holdings disallow me an opportunity to amend my complaint?
5. How can one be charged a Filing Fee for an appeal that was never filed?
6. What is the Filing Fee for if no appeal was filed?
7. Will the Supreme Court if I am denied leave in *Forma payperis* on certiorari and can not pay the Filing Fee order me to pay it anyway after certiorari is denied with the same opinion of 28 U.S.C. Sec. 1915 as the 7th Cir. interprets it with *Newlin v. Helman*, 123 F.3d 429, 434 (7th Cir. 1997)?

LIST OF PARTIES

☒ All parties appear in the caption of the case on the cover page.

☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

David L. Chidester
16 Linclon Way
Valparaiso, IN 46360

RELATED CASES

Russell G. Finnegan v. David L. Chidester No. 3:23-cv-00309-JD-JEM, Northern District of Indiana, South Bend Division.
Judgment entered on April, 27, 2023.

Russell G. Finnegan v. David L. Chidester No. 23-1947, Seventh Circuit Court of Appeals, Final order entered Oct. 6, 2023.

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APPENDIX A	<i>Order of Court of Appeals entered on Aug. 14, 2023</i>
APPENDIX B	<i>Order of Court of Appeals entered on Oct. 6, 2023</i>
APPENDIX C	<i>Opinion and Order of District Court entered on April 27, 2023</i>
APPENDIX D	<i>Order of District Court entered on May 22, 2023</i>
APPENDIX E	<i>Memorandum in support of motion for leave to proceed on appeal in forma pauperis filed on June 23, 2023</i>
APPENDIX F	<i>Copy of 28 U.S.C. Sec. 1915</i>

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Hukic v. Aurora Loan Servs., 588 F.3d 420, 432 _____ 4.
(7th Cir. 2009)

Abu-Shawish v. United States, 898 F.3d 726, 738 _____ 4.
(7th Cir. 2018)

Tobey v. Chibucas, 890 F.3d 634, 647-48 (7th Cir. 2018) _____ 4.

Olson v. Champaign Cnty., Ill., 784 F.3d 1093, 1097 _____ 4.
(7th Cir. 2015)

Shever v. Rhodes, 416 U.S. 232 (1974) _____ Appendix F

Newlin v. Helman, 123 F.3d 429, 434 (7th Cir. 1997) _____ 5.

STATUTES AND RULES

28 U.S.C. 1915 _____ 6.

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at _____; or,

☒ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the United States district court appears at Appendix C to the petition and is

☐ reported at _____; or,

☒ has been designated for publication but is not yet reported; or,

☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was October 6, 2023.

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

28 U.S.C. Sec. 1915. Proceedings in Forma pauperis, provided at Appendix F.

STATEMENT OF THE CASE

On April 20, 2023 I Filed a complaint in the District Court against David L. Chidester a senior judge. The Court dismissed my complaint giving David Chidester default immunity and disallowing me an opportunity to amend my complaint. I Filed a notice of appeal in the District Court on May 17, 2023 raising the issue of constitutional question of Indiana's senior judge statute I.C. 33-23-3-1 being unconstitutional violating U.S. Const. Art. IV Sec. 4. The District Court then certified in writing that my appeal was taken in bad faith.

On June 23, 2023 I Filed a memorandum in support of motion to proceed on appeal in forma pauperis in the Court of Appeals. In my motion I identified four instances of the deliberate misuse of stare decises by the District Court in its order to dismiss my complaint with partial holdings inappropriately applied of *Hukic v. Aurora Loan Servs.*, 588 F.3d 420, 432 (7th Cir. 2009), *Abu-Shawish v. United States*, 898 F.3d 726, 738 (7th Cir. 2018) and inapplicable cases cited of *Tobey v. Chibucas*, 890 F.3d 634, 647-48 (7th Cir. 2018) and *Olson v. Champaign Cnty., Ill.*, 784 F.3d 1093, 1097 (7th Cir. 2015) and again raised the constitutional question of Indiana's senior judge statute.

On Aug. 14, 2023 the Court of Appeals denied my motion to proceed in forma pauperis stating I did not identify a good faith issue. On Oct. 6, 2023 the Court of Appeals dismissed my appeal for failure to prosecute and ordered me to pay the \$505.00 Filing Fee for an

appeal that was not Filed using *Newlin v. Helman*, 123 F.3d 429, 434 (7th Cir. 1997).

REASONS FOR GRANTING THE PETITION

Granting this petition could clarify 28 U.S.C. Sec. 1915 and how the 7th Cir. has interpreted it in its opinion of *Newlin v. Helman* (7th Cir. 1997) and how the Court of Appeals is charging prisoners Filing fees for appeals that are not Filed. Also this petition could curtail deliberate judicial misconduct that seems to be retaliatory towards pro se prisoners.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Russell B. Fennegan

Date: 30 Oct. 2023