

UNITED STATES SUPREME COURT

IN Re; DARRYL SMITH  
PETITIONER / APPELLANT

SUPREME COURT NO.; \_\_\_\_\_

U.S. SIXTH CIRCUIT COURT OF APPEALS

CASE NO. 22-3665

U.S. DISTRICT COURT

CASE NO. 21 CV-00934

MOTION REQUEST FOR TIME EXTENSION  
TO FILE FOR WRIT OF CERTIORARI (APPEAL)

COMES NOW DARRYL SMITH - AN INDIGENT 71 YEAR OLD INDIGENT PRISONER (SELF REPRESENTED) AND WITH NUMEROUS PHYSICAL DISABILITIES AND DOES HEREBY MOVE FOR AND REQUEST THAT THIS COURT GRANT TO HIM A TIME EXTENSION TO MAIL IN AND SUBMIT HIS PETITION FOR WRIT OF CERTIORARI TO APPEAL THE APPROVED DECISIONS TO DENY ALL COURT ACCESS RIGHTS PROHIBITING PETITIONER FROM HIS RIGHT TO APPEAL AND CONTEST HIS CRIMINAL CONVICTION AND IMPRISONMENT. (ORDERS AND DECISIONS ATTACHED)

SMITH TIMELY FILED A MOTION FOR AN EN BANC HEARING RECONSIDERATION (IN NOVEMBER 2022) TO THE U.S. SIXTH CIRCUIT APPEALS COURT. (EXHIBIT; 6). THE EN BANC MOTION WAS DENIED MARCH 24, 2023 (EXHIBIT; 4) IN RE; TO THE DECISION ISSUED IN EXHIBIT; 5, (IN MANDAMUS ACTION TO COMPEL THE U.S. DISTRICT COURT TO END ITS BAN TO PROHIBIT SMITH FROM APPEALING HIS CONVICTION AND IMPRISONMENT UNDER 28 USC 2254 - EXHIBITS; 1, 2, 3, 6)

PRISON OFFICIALS WITHHELD COURT MAIL FOR MONTHS AND SEIZE HIS COURT CASE MATERIALS TO IMPEDE HIS ABILITY TO FILE THIS CERTIORARI APPEAL. (EXHIBITS; 7, 8, 9). THIS IS ONGOING TO DATE.

OVER



SMITH is 71 YEARS old WITH MANY SERIOUS AilMENTS AND PHYSICAL disabilities which slows AND delays his Ability To WRITE THIS EXTENSIVE Appeal. He is A SERIOUS FAILING HEART CONDITION (EXHIBITS; 10,11,12) AND DAMAGED eyesight IMPAIRMENT AND 80 PCT. DEAF (EXHIBITS; 10,11,12,13)

SMITH submitted OVERWHELMING IRREFUTABLE Police issued evidence OF ACTUAL INNOCENCE (IN HIS LOWER COURT HABEAS CORPUS CASE IN CASE # 21-CV-00934 U.S. DIST. COURT, N.D. OHIO, see Doc. 1, 5 exhibits), SMITH did NOT COMMIT THE ARSON CRIMES AS Police REPORTS VERIFY IN EXHIBITS;

DATE MAILED / submitted;

JUNE 16, 2023

Submitted by;

SI Darryl Smith

DARRYL SMITH

SERVICE

A COPY OF THIS MOTION WAS FORWARDED BY U.S. MAIL TO THE U.S. DISTRICT COURT (N.D. OHIO) 801 SUPERIOR AVE. CLEVELAND, OHIO 44113-1830



**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

Deborah S. Hunt  
Clerk

100 EAST FIFTH STREET, ROOM 540  
POTTER STEWART U.S. COURTHOUSE  
CINCINNATI, OHIO 45202-3988

Tel. (513) 564-7000  
[www.ca6.uscourts.gov](http://www.ca6.uscourts.gov)

Filed: October 05, 2022

Mr. Darryl Smith  
Mansfield Correctional Institution  
P.O. Box 788  
Mansfield, OH 44901

Re: Case No. 22-3665, In re: Darryl Smith  
Originating Case No. : 1:21-cv-00934

Dear Mr. Smith,

The Court issued the enclosed Order today in this case. Judgment to follow.

Sincerely yours,

s/Roy G. Ford  
Case Manager  
Direct Dial No. 513-564-7016

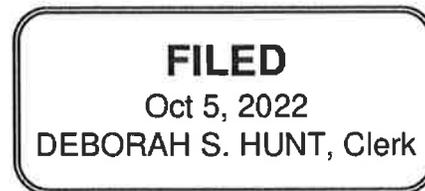
cc: Ms. Sandy Opacich

Enclosure

No mandate to issue

No. 22-3665

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT



In re: DARRYL SMITH, )  
 )  
Petitioner. )

ORDER

Before: SUTTON, Chief Judge; GUY and COLE, Circuit Judges.

Darryl Smith, an Ohio prisoner, petitions for a writ of mandamus and asks that we compel the district court to vacate its order enforcing filing restrictions, provide him with a copy of the Warden’s return of writ, and order the recusal of the magistrate judge. Further, he suggests that the district court has unreasonably delayed adjudicating his habeas petition. Smith also thrice moves to proceed *in forma pauperis*.

Mandamus “is a drastic and extraordinary remedy reserved for really extraordinary causes.” *Cheney v. U.S. Dist. Ct. for Dist. of Columbia*, 542 U.S. 367, 380 (2004) (internal quotation marks and citation omitted). “[T]hree conditions must be satisfied before it may issue.” *Id.* First, the petitioner must have no other adequate remedy to obtain the relief he seeks. *Id.* Second, the right to the writ must be “clear and indisputable.” *Id.* at 381 (citation omitted). Finally, even if these prerequisites have been met, issuance of the writ must be “appropriate under the circumstances.” *Id.*

Smith first challenges the enforcement of the filing restrictions imposed against him in *Smith v. Pinkney*, No. 1:18-cv-00163 (N.D. Ohio 2018). Smith, however, did not appeal that order. His failure to pursue his available remedies does not render those remedies inadequate.

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*Cf. Rimmer v. Holder*, 700 F.3d 246, 262 (6th Cir. 2012) (“Adequacy does not depend on a party’s ability to prevail on the merits.”). And, to the extent he challenges the filing restrictions as applied in his present case, he was granted leave to file his habeas petition and has not yet been denied leave to file a pleading in that case.

Smith also seeks the magistrate judge’s recusal. We may consider a mandamus petition following the denial of a motion to recuse. *In re Aetna Cas. & Sur. Co.*, 919 F.2d 1136, 1143 (6th Cir. 1990) (en banc). But, other than mere speculation, Smith has not pointed to any antagonism supporting his claims of bias or improper motive and, generally, prejudice may not be established by challenging the correctness of a judicial ruling, *Williams v. Anderson*, 460 F.3d 789, 815 (6th Cir. 2006).

Smith also asks that we compel the district court to send him a copy of the Warden’s return of writ. It does not appear that he has sought that relief before the district court. Thus, he has an adequate alternative remedy.

Finally, Smith asserts that the district court has unduly delayed adjudicating his habeas petition. “[D]istrict courts ordinarily enjoy broad discretion in matters of pretrial management, scheduling, and docket control.” *Kimble v. Hoso*, 439 F.3d 331, 336 (6th Cir. 2006); *see also In re Air Crash Disaster*, 86 F.3d 498, 516 (6th Cir. 1996). Nonetheless, we look “unfavorably upon lengthy, unjustified, and inexplicable delays on the part of district courts in deciding cases.” *Campbell v. PMI Food Equip. Grp., Inc.*, 509 F.3d 776, 782 (6th Cir. 2007). No undue delay has occurred here: the magistrate judge and district court have promptly addressed the parties’ pending motions; portions of the delay are attributable to Smith’s intervening motions; his petition has only been ripe for review since February 2022; and the magistrate judge has

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explained that the district court will follow its normal practice of ruling on pending habeas petitions in the order they ripen.

Accordingly, the petition for a writ of mandamus is **DENIED**. The motions to proceed *in forma pauperis* are **DENIED AS MOOT**.

ENTERED BY ORDER OF THE COURT

A handwritten signature in black ink, appearing to read "Deborah S. Hunt", written in a cursive style.

---

Deborah S. Hunt, Clerk



**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

Deborah S. Hunt  
Clerk

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Filed: March 24, 2023

Mr. Darryl Smith  
Mansfield Correctional Institution  
P.O. Box 788  
Mansfield, OH 44901

Re: Case No. 22-3665, In re: Darryl Smith  
Originating Case No.: 1:21-cv-00934

Dear Mr. Smith,

The Court issued the enclosed Order today in this case.

Sincerely yours,

s/Beverly L. Harris  
En Banc Coordinator  
Direct Dial No. 513-564-7077

Enclosure