

IN THE
SUPREME COURT OF THE UNITED STATES

MICHAEL BOHANNAN, §
Petitioner, §
v. § C. NO. 30
ERICA REDIC, et al., § USCA NO. 20-40860
Respondents. §

PETITIONER'S RULE 30 MOTION FOR AN EXTENSION OF TIME

TO THE HONORABLE JUSTICES OF THE UNITED STATES SUPREME COURT:

COMES NOW, Petitioner Bohannan, pro se, and moves the Court for an extension of time in which to file his Petition for a Writ Of Certiorari. In support thereof, would show the following:

The United States Court of Appeals For The Fifth Circuit, on August 29, 2023 denied Bohannan's Petition for Rehearing En Banc. Bohannan calculates the current due date for his filing his Petition for a Writ of Certiorari as being November 27, 2023. Bohannan, in accordance with Rule 30, is filing this motion more than ten (10) days before that due date.

On September 6, 2023, before Bohannan had even received notice of the August 29th denial, the Texas prison system went on a system-wide lockdown because the prison officials have refused to control the massive quantities of illegal drugs coming into the state's prisons through their employees, and the tragic number of drug-related murders taking place in the state's prisons. That lockdown remained in effect throughout the month of September and into the early part of October.

WHEREFORE, PREMISES CONSIDERED, Bohannon prays the Court provide him an extension of time until February 24, 2024.

Respectfully submitted,



Michael W. Bohannon #1841746
TDCJ-ID Stiles Unit
3060 FM 3514
Beaumont, Texas 77705-7635

SWORN DECLARATION

I, Michael Bohannon, being presently confined in Jeffesron County, Texas, and under penalty of perjury, do hereby affirm that the foregoing facts are true and correct, and that I have placed a copy of this motion in the prison-provided mailbox, first-class postage prepaid, for mailing to:

Clerk of the Court
Supreme Court of the United States
One First Street, N.E.
Washington, D.C. 20543-0001

on this the 13th day of November, 2023.



Petitioner/Affiant

NOTE: No defendant has ever appeared in this action.

United States Court of Appeals
for the Fifth Circuit

No. 20-40860
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
March 3, 2023

Lyle W. Cayce
Clerk

MICHAEL BOHANNAN,

Plaintiff—Appellant,

versus

ERICA REDIC, *Texas Department of Justice-CID Law Library Supervisor*;
BRYAN COLLIER, *Texas Department of Criminal Justice Director*; LORIE
DAVIS, *Texas Department of Criminal Justice Director*; RENEE
HINOJOSA, *Texas Department of Criminal Justice -RPD Director*; JONI
WHITE, *Texas Department of Criminal Justice-CID Classification Chief*,

Defendants—Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:20-CV-293

Before KING, HIGGINSON, and WILLETT, *Circuit Judges.*

PER CURIAM:*

Michael Bohannon, Texas prisoner #1841746, is serving a life sentence in the Texas Department of Criminal Justice after being convicted

* This opinion is not designated for publication. See 5TH CIR. R. 47.5.

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of violating a civil commitment order. Bohannon sought to proceed in forma pauperis (IFP) in his pro se civil rights suit asserting claims based on Defendants' alleged failure to make religious accommodations. He appeals the district court's dismissal of his suit without prejudice pursuant to Federal Rule of Civil Procedure 41(b) for failure to comply with court orders that, pursuant to the Prison Litigation Reform Act (PLRA), he submit an IFP application containing a certified IFP data sheet along with a financial affidavit.

Because certain of Bohannon's claims might face a statute of limitations, we review the dismissal as we would a dismissal with prejudice. *See Nottingham v. Warden, Bill Clements Unit*, 837 F.3d 438, 441 (5th Cir. 2016). Dismissal was proper only if Bohannon's noncompliance was the result of purposeful delay or contumaciousness, lesser sanctions would not serve the best interests of justice, and an aggravating factor was present. *Id.* at 442.

The deficiency orders and the district court's other rulings made clear that, despite Bohannon's contention that he was not a prisoner for purposes of the PLRA, he was required to provide a certified IFP data sheet and a financial affidavit as to his assets, contemporaneously with his IFP application. Rather than comply, Bohannon persisted in asserting that he was not a prisoner, that prison rules prevented him from being able to physically attach his certified IFP data sheet to a form IFP motion, that the court had not informed him what was wrong with the certified IFP data sheets he had already submitted, and that he had complied with the magistrate judge's deficiency order when he filed a typed IFP motion and declaration.

As the district court clearly explained to Bohannon multiple times, he is a prisoner and subject to the PLRA. *See* 28 U.S.C. § 1915(h); *see also Bohannon v. State*, 546 S.W.3d 166, 168-71 (Tex. Crim. App. 2017).

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Additionally, the district court did not order Bohannon to physically attach the documents to each other. Finally, the district court's deficiency orders provided Bohannon with clear instructions. We hold that Bohannon's conduct was contumacious. *See Nottingham*, 837 F.3d at 442.

Further, the district court applied lesser sanctions, given that the magistrate judge twice explicitly warned Bohannon that his refusal to comply with the deficiency orders might result in the dismissal of his case. *See id.* (finding that the magistrate judge applied lesser sanctions in explicitly warning litigant that his continued refusal to complete questionnaire might lead to sanctions that included the ultimate dismissal of his suit).

We also find that aggravating factors were present. Bohannon was pro se and personally responsible for his failure to comply with the court's orders; he acknowledged that the declaration that he filed with his typed IFP motion did not address the financial information the court sought; and, even after the dismissal of his suit, he filed a motion for reconsideration that did not comply with the court's orders. *See id.* at 443. Thus, the district court's Rule 41(b) dismissal without prejudice was not an abuse of discretion. *See id.* at 442-43.

Bohannon's argument that the transfer of his claims against certain defendants to other divisions and district courts in Texas was an abuse of discretion because it caused him to incur additional filing fees is unavailing. The transfers were proper based on the defendants residing or working in the other divisions and districts. *See Broussard v. State Farm Fire & Cas. Co.*, 523 F.3d 618, 631 (5th Cir. 2008); *see also* 28 U.S.C. §§ 1391, 1404(a).

Bohannon's argument that the district court violated the Religious Land Use and Institutionalized Persons Act when it subjected him to the 28 U.S.C. § 1915(b) filing fee requirements to proceed in district court lacks a

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factual premise. The district court never assessed a filing fee to proceed in district court.

The judgment of the district court is **AFFIRMED**.

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

March 03, 2023

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

Regarding: Fifth Circuit Statement on Petitions for Rehearing
or Rehearing En Banc

No. 20-40860 Bohannon v. Redic
USDC No. 6:20-CV-293

Enclosed is a copy of the court's decision. The court has entered judgment under **FED. R. APP. P. 36**. (However, the opinion may yet contain typographical or printing errors which are subject to correction.)

FED. R. APP. P. 39 through **41**, and **5TH CIR. R. 35, 39, and 41** govern costs, rehearings, and mandates. **5TH CIR. R. 35 and 40 require you to attach to your petition for panel rehearing or rehearing en banc an unmarked copy of the court's opinion or order.** Please read carefully the Internal Operating Procedures (IOP's) following **FED. R. APP. P. 40** and **5TH CIR. R. 35** for a discussion of when a rehearing may be appropriate, the legal standards applied and sanctions which may be imposed if you make a nonmeritorious petition for rehearing en banc.

Direct Criminal Appeals. **5TH CIR. R. 41** provides that a motion for a stay of mandate under **FED. R. APP. P. 41** will not be granted simply upon request. The petition must set forth good cause for a stay or clearly demonstrate that a substantial question will be presented to the Supreme Court. Otherwise, this court may deny the motion and issue the mandate immediately.

Pro Se Cases. If you were unsuccessful in the district court and/or on appeal, and are considering filing a petition for certiorari in the United States Supreme Court, you do not need to file a motion for stay of mandate under **FED. R. APP. P. 41**. The issuance of the mandate does not affect the time, or your right, to file with the Supreme Court.

Court Appointed Counsel. Court appointed counsel is responsible for filing petition(s) for rehearing(s) (panel and/or en banc) and writ(s) of certiorari to the U.S. Supreme Court, unless relieved of your obligation by court order. If it is your intention to file a motion to withdraw as counsel, you should notify your client promptly, **and advise them of the time limits for filing for rehearing and certiorari.** Additionally, you **MUST** confirm that this information was given to your client, within the body of your motion to withdraw as counsel.

Sincerely,

LYLE W. CAYCE, Clerk

A handwritten signature in cursive script that reads "Dantrell Johnson".

By: _____
Dantrell L. Johnson, Deputy Clerk

Enclosure(s)

Mr. Michael Bohannon

United States Court of Appeals
for the Fifth Circuit

No. 20-40860

MICHAEL BOHANNAN,

Plaintiff—Appellant,

versus

ERICA REDIC, *Texas Department of Justice-CID Law Library Supervisor;*
BRYAN COLLIER, *Texas Department of Criminal Justice Director;* LORIE
DAVIS, *Texas Department of Criminal Justice Director;* RENEE
HINOJOSA, *Texas Department of Criminal Justice -RPD Director;* JONI
WHITE, *Texas Department of Criminal Justice-CID Classification Chief,*

Defendants—Appellees.

Appeal from the United States District Court
Eastern District of Texas
USDC No. 6:20-CV-293

ON PETITION FOR REHEARING EN BANC

Before KING, HIGGINSON, and WILLETT, *Circuit Judges.*

PER CURIAM:

IT IS ORDERED that Appellant's petition for rehearing en banc is DENIED. No member of the panel or judge in regular active service requested that the court be polled on rehearing en banc (FED. R. APP. P. 35 and 5TH CIR. R. 35).

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

August 29, 2023

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 20-40860 Bohannan v. Redic
USDC No. 6:20-CV-293

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Donna L. Mendez, Deputy Clerk
504-310-7677

Mr. Michael Bohannan