

APPEAL No.

**IN THE
SUPREME COURT OF THE UNITED STATES**

KEITH VERNON DAVIS

Appellant

v.

UNITED STATES OF AMERICA

Respondant.

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

APPEAL No. 23:24-11

(WDPa 3:22-cv-00152)

APPLICATION FOR EXTENSION TO FILE PETITION FOR WRIT OF CERTIORARI

This application should be held to "less stringent standards than formal pleadings drafted by a lawyer." *Haines v. Kerner*, 404 U.S. 519 (1972)

AND NOW comes Appellant Keith Vernon Davis, pro se and moves this Honorable Supreme Court of the United States, for an Extension of Time to File Petition for writ of certiorari for the following reasons and avers:

1. Petitioner is an inmate confined at State Correctional Institution at Houtzdale, PA and claims good cause.

2. Petitioner's prison institutional mailroom received unacceptable correspondence [appended hereto] from the United States Court of Appeals, Third Circuit on January 26, 2024, however due to the courts affixing an "Invalid Court Control Number" the institution returned the correspondence undelivered.

3. Petitioner has notified the U.S. Court of Appeals of non receipt of their "original" or any order denying Petitioner's Habeas Corpus relief or the basis for such, as recently as April 5, 2024, thus request a copy to no avail.

4. Hence petitioner is unavailable to research, prepare or file a petition for writ of certiorari within the allotted ninety (90) days and thus faces an extraordinary circumstance and will be procedurally time barred, but for the U.S. Court of Appeals error, petitioner would file a timely Petition for writ of certiorari.

WHEREFORE, Petitioner Keith Vernon Davis, pro se, prays the Honorable Supreme Court of the United States GRANT his application for extension to file petition for writ of certiorari in the "interest of justice".



KEITH VERNON DAVIS NF9296

Pro Se Petitioner

Unacceptable Correspondence Form

Inmate Name:	KEITH VERNON DAVIS	Inmate Number:	NF9296
Date:	01/26/2024	SCI/Housing Unit:	DB 14

Sender's Name and Address: OFFICE OF THE CLERK US COURT OF APPEALS
601 MARKET ST PHILADELPHIA PA 19106

Return to Sender

Your correspondence has been Returned to Sender for the following reason:

<input type="checkbox"/> Non-privileged – incorrectly sent to Institution	<input type="checkbox"/> No return address
<input type="checkbox"/> Has postage due	<input checked="" type="checkbox"/> Other: INVALID COURT CONTROL NUMBER (826722)
<input checked="" type="checkbox"/> Privileged mail that has incorrect coding	

Returned to Sender By: DJ

Confiscation

Your correspondence has been confiscated. Indicate your preference of disposition and return form. Confiscated Items will be destroyed if a response is not received within 15 days.

Destroy: Yes No **Inmate's Signature:** _____

Return at your expense: Attach an addressed envelope/cash slip and return this form.

Reason for Confiscation:

<input type="checkbox"/> No return address	<input type="checkbox"/> Contains copyright material
<input type="checkbox"/> Contains personal checks, cash, or money orders	<input type="checkbox"/> Contains unauthorized correspondence between inmates in other institutions or third-party correspondence
<input type="checkbox"/> Contains a driver's license, birth certificate, social security card, or other identity-related documentation that should have been sent to the Business Office	<input type="checkbox"/> Contains photographs that violate the Department's permitted content policy
<input type="checkbox"/> Contains unapproved tapes, CDs or videos	<input type="checkbox"/> Contains more than 25 photographs
<input type="checkbox"/> Contains UCC/Sovereign Citizen material	<input type="checkbox"/> Other: _____
Confiscated By: _____	Date item shipped: _____

If you DO wish to appeal:

The inmate has 15 working days from the date on the Unacceptable Correspondence Form to notify the Facility Manager in writing, in accordance with the DC-ADM 804, and the sender has 15 working days to appeal, in writing, to the Facility Manager, which for the sender constitutes the only level of appeal. (See www.cor.pa.gov) The mailroom officer will hold the confiscated items until the appeal process is completed.

If you DO NOT wish to appeal:

The inmate has the option to forward a cash slip with an addressed envelope to the mailroom within 15 working days from the date of this decision to have the confiscated items mailed out of the facility or it will be destroyed. Material that cannot be legally mailed will be destroyed.

cc: Facility Manager
Security Office

CLD-050

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. **23-2411**

KEITH VERNON DAVIS, Appellant

VS.

SUPERINTENDENT HOUTZDALE SCI

(W.D. Pa. Civ. No. 3:22-cv-00152)

Present: KRAUSE, FREEMAN, and SCIRICA, Circuit Judges

Submitted is Appellant's motion for a certificate of appealability under 28 U.S.C. § 2253(c)(1)

in the above-captioned case.

Respectfully,

Clerk

ORDER

The foregoing request for a certificate of appealability is denied. Jurists of reason would not dispute the District Court's determination that Appellant's petition is time-barred. See Slack v. McDaniel, 529 U.S. 473, 484 (2000). Appellant has not shown that his petition would be rendered timely through the application of statutory tolling, see 28 U.S.C. § 2244(d)(2); Swartz v. Myers, 204 F.3d 417, 424 (3d Cir. 2000); Douglas v. Horn, 359 F.3d 257, 262 (3d Cir. 2004), or equitable tolling, see Holland v. Florida, 560 U.S. 631, 649 (2010); Ross v. Varano, 712 F.3d 784, 800 (3d Cir. 2013). Nor has he shown that the limitations period should be excused based on actual innocence. See McQuiggin v. Perkins, 569 U.S. 383, 386 (2013); Schlup v. Delo, 513 U.S. 298, 329 (1995).

By the Court,

s/ Cheryl Ann Krause
Circuit Judge

Dated: January 19, 2024

CJG/cc: Keith Vernon Davis
Warren L. Crilly, III, Esq.



A True Copy:

Patricia A. Dodszeit

Patricia S. Dodszeit, Clerk
Certified Order Issued in Lieu of Mandate

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 23-2411

KEITH VERNON DAVIS,
Appellant

v.

SUPERINTENDENT HOUTZDALE SCI

(WDPA No. 3-22-cv-00152)

SUR PETITION FOR REHEARING

Present: CHAGARES, Chief Judge, JORDAN, HARDIMAN, SHWARTZ, KRAUSE, RESTREPO, BIBAS, PORTER, MATEY, PHIPPS, FREEMAN, MONTGOMERY-REEVES, CHUNG, and SCIRICA,¹ Circuit Judges

The petition for rehearing filed by Appellant Keith Davis in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

¹ Judge Scirica's vote is limited to panel rehearing.

BY THE COURT,

s/ Cheryl Ann Krause
Circuit Judge

Dated: April 1, 2024

CJG/cc: Keith Vernon Davis
Warren L. Crilly, III, Esq.

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**UNITED STATES COURT OF APPEALS
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APPEAL No. 23:24-11
(WDPA 3:22-cv-00152)**

PROOF OF SERVICE

I, KEITH VERNON DAVIS, pro se, do hereby certify that I am this day serving a copy of the Notice of Appeal and or Motion For Order Compelling Memorandum Opinion and Order upon the below listed individuals in the manner indicated below which satisfies the requirements of PA. R.A.P. 121:

SERVICE VIA U.S.P.S first class mail

Cambria County District Attorney's Office
Circuit
200 South Center Street
Ebensburg, PA. 15931
Notice of Appeal

United States Court of Appeals, for the Third
21400 U.S. Courthouse
601 Market Street
Philadelphia, PA 19106
Notice of Appeal/Motion For Order Compelling
Memorandum Opinion and Order

Executed this 14 th day of April, 2024 and placed in the Prison's Mailbox. Houston v. Lack, 487 U.S. 266.



KEITH VERNON DAVIS NF9296
Pro Se Petitioner