

No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

Edmund J. Janas, II — PETITIONER  
(Your Name)

VS.

The United States of America RESPONDENT(S)

**MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

District Court - District of Massachusetts

First District Court of Appeals - Boston

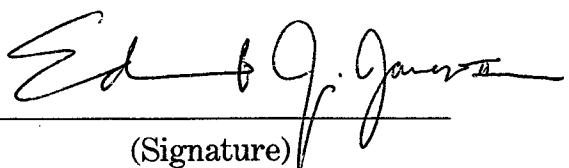
Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

Petitioner's affidavit or declaration in support of this motion is attached hereto.

Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

The appointment was made under the following provision of law: \_\_\_\_\_, or \_\_\_\_\_

a copy of the order of appointment is appended.

  
(Signature)

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

EDMUND J. JANAS, II,

Plaintiff,

Civil Action No. 20-30035-MGM

V.

DEPARTMENT OF VETERANS  
AFFAIRS, ET AL.,

## Defendants.

## ORDER

June 24, 2020

MASTROIANNI, U.S.D.J.

1. Plaintiff's motion (Dkt. No. 2) for leave to proceed *in forma pauperis* is GRANTED.
2. The Clerk shall issue summonses for service of the complaint and shall send the summonses, a copy of the complaint, and this Order to the plaintiff, who must serve the defendants with these documents in accordance with Federal Rule of Civil Procedure 4(m). The plaintiff may elect to have service made by the United States Marshals Service. If directed by the plaintiff to do so, the United States Marshals Service shall serve the above-referenced documents and this Order upon the defendants, in the manner directed by the plaintiff, with all costs of service to be advanced by the United States. Notwithstanding this Order to the United States Marshal Service, it remains plaintiff's responsibility to provide the United States Marshal Service with all necessary paperwork and service information. Notwithstanding Fed. R. Civ. P. 4(m) and Local Rule 4.1, the plaintiff shall have 90 days from the date of this Order to complete service.
3. Plaintiff's motion (Dkt. No. 3) to seal and redact witness names is DENIED WITHOUT PREJUDICE. The Court has a process for having confidential materials impounded, i.e. filed

under seal. *See* District of Massachusetts Local Rule 7.2. Rule 7.2 (d) explains that motions for impoundment must be filed and ruled upon prior to submission of the actual material sought to be impounded, unless the court orders otherwise. A case filed in federal court and the documents filed in the case are presumed to be public. *See In re Providence Journal Co., Inc.*, 293 F.3d 1, 13-14 (1st Cir. 2002). “[O]nly the most compelling reasons can justify non-disclosure of judicial records.” *National Org. for Marriage v. McKee*, 649 F.3d 34, 70 (1st Cir. 2011), *cert. denied*, 565 U.S. 1234 (2012) (internal citation and citation to quoted cases omitted). Here, plaintiff fails to follow the procedures outlined in Local Rule 7.2 and, more importantly, offers no special circumstances to overcome the strong presumption in favor of maintaining public access to court records.

4. Plaintiff’s motion (Dkt. No. 5) to admit further evidence is DENIED WITHOUT PREJUDICE as premature, as discovery has not yet commenced.
5. Plaintiff’s motion (Dkt. No. 4) to subpoena and motion (Dkt. No. 6) for medical expert and are DENIED. The *in forma pauperis* statute, 28 U.S.C. § 1915, does not authorize funds for expert witnesses and other litigation expenses for indigent parties. “[I]n forma pauperis Plaintiffs, including pro se inmates, are responsible for their litigation fees in civil actions.” *Collins v. Bledsoe*, 2014 WL 6982938, at \*3 (M.D. Pa. Dec. 9, 2014) (quoting *Hodge v. U.S.*, 2009 WL 2843332, \*4–5 (M.D. Pa. Aug. 31, 2009)).

It is So Ordered.

/s/ Mark G. Mastroianni  
MARK G. MASTROIANNI  
United States District Judge

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

EDMUND J. JANAS, II,

Plaintiff,

v.

DEPARTMENT OF VETERANS  
AFFAIRS, ET AL..

Defendants.

Civil Action No. 20-30035-MGM

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

ORDER

June 24, 2020

MASTROIANNI, U.S.D.J.

1. Plaintiff's motion (Dkt. No. 2) for leave to proceed *in forma pauperis* is GRANTED.
2. The Clerk shall issue summonses for service of the complaint and shall send the summonses, a copy of the complaint, and this Order to the plaintiff, who must serve the defendants with these documents in accordance with Federal Rule of Civil Procedure 4(m). The plaintiff may elect to have service made by the United States Marshals Service. If directed by the plaintiff to do so, the United States Marshals Service shall serve the above-referenced documents and this Order upon the defendants, in the manner directed by the plaintiff, with all costs of service to be advanced by the United States. Notwithstanding this Order to the United States Marshal Service, it remains plaintiff's responsibility to provide the United States Marshal Service with all necessary paperwork and service information. Notwithstanding Fed. R. Civ. P. 4(m) and Local Rule 4.1, the plaintiff shall have 90 days from the date of this Order to complete service.
3. Plaintiff's motion (Dkt. No. 3) to seal and redact witness names is DENIED WITHOUT PREJUDICE. The Court has a process for having confidential materials impounded, i.e. filed

under seal. *See* District of Massachusetts Local Rule 7.2. Rule 7.2 (d) explains that motions for impoundment must be filed and ruled upon prior to submission of the actual material sought to be impounded, unless the court orders otherwise. A case filed in federal court and the documents filed in the case are presumed to be public. *See In re Providence Journal Co., Inc.*, 293 F.3d 1, 13-14 (1st Cir. 2002). “[O]nly the most compelling reasons can justify non-disclosure of judicial records.” *National Org. for Marriage v. McKee*, 649 F.3d 34, 70 (1st Cir. 2011), *cert. denied*, 565 U.S. 1234 (2012) (internal citation and citation to quoted cases omitted). Here, plaintiff fails to follow the procedures outlined in Local Rule 7.2 and, more importantly, offers no special circumstances to overcome the strong presumption in favor of maintaining public access to court records.

4. Plaintiff’s motion (Dkt. No. 5) to admit further evidence is DENIED WITHOUT PREJUDICE as premature, as discovery has not yet commenced.
5. Plaintiff’s motion (Dkt. No. 4) to subpoena and motion (Dkt. No. 6) for medical expert and are DENIED. The *in forma pauperis* statute, 28 U.S.C. § 1915, does not authorize funds for expert witnesses and other litigation expenses for indigent parties. “[I]n forma pauperis Plaintiffs, including pro se inmates, are responsible for their litigation fees in civil actions.” *Collins v. Bledsoe*, 2014 WL 6982938, at \*3 (M.D. Pa. Dec. 9, 2014) (quoting *Hodge v. U.S.*, 2009 WL 2843332, \*4–5 (M.D. Pa. Aug. 31, 2009)).

It is So Ordered.

/s/ Mark G. Mastroianni  
MARK G. MASTROIANNI  
United States District Judge

No. \_\_\_\_\_

IN THE  
The Supreme Court of the United States

**EDMUND J. JANAS, II — PETITIONER**

**vs.**

**UNITED STATES OF AMERICA, ET AL,**

**TRINITY HEALTH OF NEW ENGLAND, Mercy Medical Center - Formerly  
Riverbend; WINGATE OF SPRINGFIELD; BAYSTATE MEDICAL CENTER;  
ATLANTIC CHARTER INSURANCE COMPANY; BRUNELLE FUNERAL  
HOME; MASSHEALTH,  
— RESPONDENT(S).**

**PETITION FOR WRIT OF CERTIORARI**

Edmund J. Janas, II  
27 Dorchester Street  
Springfield, MA 01109  
Petitioner in Pro Per.

## QUESTION(S) PRESENTED

Did the District Court and the First Circuit Court of Appeals deviate from established precedents regarding jurisdiction and procedural compliance, resulting in a denial of access to justice contrary to due process and equal protection principles?

Does the implementation of tort reform, specifically the limitation on damage awards based on future earnings, constitute a violation of the Equal Protection Clause by disproportionately denying the elderly and low-income individuals meaningful access to justice?

In the context of elder care and veterans' healthcare, does the failure to coordinate care across medical providers, leading to patient harm, represent a systemic breach of duty that undermines constitutional guarantees of equal protection and due process?

Does the refusal to provide legal representation for elderly victims of medical negligence, predicated on the perceived lack of future earnings, reflect societal undervaluation of elder lives, thereby challenging the principles of justice, equality, and the constitutional guarantee of equal protection under the law?

Considering Chief Justice Tom Parker of Alabama's acknowledgment that 'each person has a value that far exceeds the ability of human beings to calculate,' does tort reform's limitation on awards in wrongful death and personal injury claims for the elderly and economically disadvantaged contravene the theological and moral principles upheld by state law, and suggest an underlying societal belief that the value of a life is predominantly determined by its potential future earnings, thereby relegating the elderly and the economically disadvantaged to a second-class status, in violation of the constitutional guarantee of equal protection under the law?

## **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:

## **RELATED CASES**

**Erickson v. Pardus, 551 U.S. 89 (2007):** The Supreme Court emphasized the necessity of leniency in reviewing pro se complaints, reversing a dismissal for being too conclusory. This case underscores the high court's commitment to ensuring that claims by self-represented litigants are given fair consideration, which is pivotal for our appeal against procedural and jurisdictional dismissals.

**BARONE v. UNITED STATES, 2018:** Highlighting the court's leniency towards pro se litigants by granting Barone an opportunity to amend his complaint. This reflects the judiciary's understanding of the importance of access to justice for self-represented parties, resonating with our contention regarding procedural fairness.

**Draughon v. Johnson:** In this case, the Supreme Court reversed a summary judgment in a healthcare liability case, acknowledging that strict adherence to procedural norms should not obstruct substantive justice, particularly for pro se litigants. This decision aligns with our argument against the procedural barriers that impeded our case.

**Delaney v. Baker, 20 Cal.4th 23 (1999):** The California Supreme Court's differentiation between "reckless neglect" and "professional negligence" under the Elder Abuse and Dependent Adult Civil Protection Act illuminates the necessity for heightened remedies in cases of elder abuse. This precedent is crucial for arguing the applicability of enhanced legal remedies in similar contexts of medical negligence against elder individuals.

**Watts v. Lester E. Cox Medical Centers:** The Missouri Supreme Court's stance against caps on non-economic damages in medical malpractice cases champions constitutional rights, challenging the foundational principles of tort reform.

**Smith v. Department of Insurance; Lebron v. Gottlieb Memorial Hospital; Estate of McCall v. United States:** These cases, across different jurisdictions, have found caps on non-economic damages to be in conflict with constitutional guarantees, reinforcing our argument against tort reform measures that limit access to justice for vulnerable groups.

**Lucas v. United States:** This case illustrates the constitutional challenge against procedural barriers erected by tort reform laws, supporting our stance on the need for judicial systems to facilitate rather than inhibit claims of medical negligence.

**Smith v. United States (Eleventh Circuit); Beaudette v. McDonough (Federal Circuit):** Both cases exemplify the judicial system's capacity to address claims of medical negligence within the VA system, relevant to our discussion on the duty of care and procedural rights of veterans.

## TABLE OF AUTHORITIES CITED

CASES PAGE	NUMBER
Smith v. United States, No. 20-11365 (11th Cir. 2021)	pp: 18, 19-20, 22-23, 27-28, 33, 34, 37-40, 42, 47-49, 51, 53, 56
U.S. ex rel. Martin v. Hathaway	pp. 1-5
Refer to Smith v. United States, No. 20-11365 (11th Cir. 2021)	

### Cases

- **Smith v. United States, No. 20-11365 (11th Cir. 2021):** pp. 18, 19-20, 22-23, 27-28, 33, 34, 37-40, 42, 47-49, 51, 53, 56
- **Erickson v. Pardus, 551 U.S. 89 (2007):**
- **Delaney v. Baker, 20 Cal.4th 23 (1999):**
- **Watts v. Lester E. Cox Medical Centers:**
- **Estate of McCall v. United States:**
- **Lucas v. United States:**
- **Griffin v. Griffin, 327 U.S. 220 (1946):**
- **BARONE v. UNITED STATES (2018):**
- **U.S. ex rel. Martin v. Hathaway:** pp. 1-5

### Statutes and Regulations

- **38 CFR § 17.32 - Informed Consent and Advance Directives:**
- **Health Insurance Portability and Accountability Act (HIPAA):**
- **38 U.S. Code § 7331 - Consent for Care:**
- **Federal Policy for the Protection of Human Subjects (“Common Rule”):**
- **Section 1557 of the Patient Protection and Affordable Care Act:**
- **Age Discrimination Act of 1975:**

#### **Constitutional Provisions**

- **U.S. Constitution, Amend. XIV, Equal Protection Clause:**
- **U.S. Constitution, Amend. V, Due Process Clause:**

#### **STATUTES AND RULES**

1. **Federal Tort Claims Act (FTCA):** This act allows for lawsuits against the United States for wrongful or negligent acts performed by federal employees. The claim that VA medical professionals breached their duty of care falls under this statute.
2. **Equal Protection Clause of the Fourteenth Amendment:** This constitutional provision protects individuals from discriminatory treatment by the government. The concern that tort reform disproportionately affects the elderly and low-income individuals could be seen as a violation of this clause.
3. **Duty of Care as Mandated by Federal and State Laws:** Medical professionals, including those working within the VA, are required to provide a certain standard of care to patients. Failure to coordinate care or provide adequate treatment could be seen as a breach of this duty.

4. **Americans with Disabilities Act (ADA):** This law prohibits discrimination based on disability. If any part of the treatment or care provided (or lack thereof) discriminated against individuals due to their age or health status, it might violate the ADA.
5. **Health Insurance Portability and Accountability Act (HIPAA):** This act protects the privacy and security of individuals' medical information. Any unauthorized disclosure or mishandling of patient information could constitute a violation.
6. **Elder Abuse and Neglect Laws:** Most states have laws specifically aimed at protecting older adults from abuse, neglect, and exploitation. If the care provided (or not provided) to elderly patients can be categorized as abuse or neglect, it might violate these laws.
7. **Veterans' Rights Laws:** Various laws are designed to protect the rights and benefits of veterans. Inadequate medical care or failure to coordinate care that adversely affects veterans could infringe upon these laws.

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 \_\_\_ 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 \_\_\_ 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 **April 18, 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).

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

Our case intersects with several statutes and rules designed to address negligence, discrimination, and the rights of individuals under federal and state law. The Federal Tort Claims Act (FTCA) is central, as it allows for lawsuits against the United States for wrongful acts by federal employees, which is particularly relevant when considering VA healthcare failures. The Veterans' Judicial Review Act (VJRA) underscores the right to appeal VA decisions, emphasizing the legal framework for veterans' care. The Equal Protection Clause of the Fourteenth Amendment and the Americans with Disabilities Act (ADA) highlight the broader issues of discrimination and equal treatment under the law. Additionally, the Massachusetts Tort Claims Act (MTCA) and state-specific healthcare and elder care laws frame the responsibilities of healthcare providers and the state's role in protecting vulnerable populations, including the elderly and disabled. Our case taps into these statutes by alleging negligence, lack of proper care coordination, and discrimination, posing significant questions about access to justice, the application of tort reform, and the obligations of federal and state entities towards individuals, especially veterans and the elderly.

**Federal Tort Claims Act (FTCA):** This act waives the sovereign immunity of the United States for certain torts committed by federal employees<sup>1</sup>. It recognizes liability for the negligent or wrongful acts or omissions of its employees acting within the scope of their official duties..

**The Veterans' Judicial Review Act (VJRA):** Passed in 1988, this act established the United States Court of Appeals for Veterans Claims to hear appeals from final decisions by the VA.

**Equal Protection Clause of the Fourteenth Amendment:** This constitutional provision mandates that individuals in similar situations be treated equally by the law<sup>5</sup>. It figures prominently in a wide variety of landmark cases<sup>6</sup>.

**The Americans with Disabilities Act (ADA):** This is a federal civil rights law that prohibits discrimination against people with disabilities in everyday activities. It guarantees that people with disabilities have the same opportunities as everyone else to enjoy employment opportunities, purchase goods and services, and participate in state and local government programs.

**The Massachusetts Tort Claims Act (MTCA)** is an effort to reduce the scope of Sovereign Immunity and provide certain plaintiffs with some recourse for their injuries<sup>9</sup>. The tort threshold in Massachusetts, which governs the ability to maintain a claim for bodily injury beyond the recovery available under Personal Injury Protection (PIP), is governed by G.L. c. 231, § 6D10.

**Healthcare and Elder Care laws in Massachusetts:** Massachusetts law outlines the standards of care for healthcare providers, especially those catering to the elderly and veterans.

## STATEMENT OF THE CASE

This petition calls upon the Supreme Court to address profound systemic failures within the Veterans Administration (VA) healthcare system and significant procedural barriers that have unjustly hindered the petitioner's pursuit of justice. At the core of this case is not only the VA's failure to coordinate adequate care for Edmund J. Janas, Sr., but also the egregious handling of his treatment—administering chemotherapy without prior notice or informed consent and issuing a rushed discharge that left the petitioner, with no medical training, to shoulder the burden of his father's end-of-life care.

The petitioner's legal challenges were further compounded by physical, emotional, and mental injuries sustained in the line of caregiving for his father. These injuries, a direct consequence of the defendants' often unethical and illegal actions, significantly impeded his ability to accurately navigate the complexities of legal filings. The mental toll, exacerbated by the need to manage and provide medical care beyond his capabilities, led to errors in filings that were mistakenly penalized by procedural dismissals without consideration for the petitioner's circumstances.

The difficulty in securing legal representation due to biases against advanced-aged patients and cases deemed unprofitable underscores a troubling denial of access to justice. Nearly 15 to 20 attorneys declined the case, citing reasons deeply rooted in ageism and a calculated disregard for the intrinsic value of life, irrespective of economic potential. This outright refusal occurred despite the petitioner's personal injuries, arising from the defendants' negligence and the resultant chaos in managing his father's care.

Furthermore, the systemic issues plaguing this case are highlighted by the lack of a thorough investigation or accountability for the defendants' actions, leaving the physical, emotional, and mental injuries suffered by the petitioner unaddressed. The egregious lack of coordinated

care, the administration of treatment without informed consent, and the forced assumption of medical responsibilities by the petitioner—coupled with the legal system's failure to accommodate or rectify the injustices faced—call for urgent and comprehensive reform.

## **REASONS FOR GRANTING THE PETITION**

The reasons for granting this petition span critical legal, procedural, and ethical dimensions that not only demand justice for the petitioner and his late father but also call for significant judicial and healthcare reforms. The timeline of events, set against the backdrop of the COVID-19 pandemic, highlights the extraordinary challenges and procedural hurdles faced by the petitioner:

**March 15, 2020:** In response to the emerging global health crisis, courts across the nation commenced an unprecedented shutdown, significantly disrupting normal judicial operations and access.

**March 20, 2020:** Amidst this sudden and widespread closure of federal courts, the petitioner, faced with no alternative, was compelled to mail in his claim. This effort to proceed with the legal process, despite such extraordinary obstacles, occurred just five days after the judicial system had effectively ground to a halt. The necessity to resort to mailing the claim underscores the immediate impact of the pandemic on traditional filing methods and access to justice.

**June 15, 2020:** Despite the petitioner's proactive and timely actions under challenging circumstances, the district court judge dismissed the case. This dismissal took place during a period of continued uncertainty and limited court functionality, without the full consideration of the extraordinary context in which the petitioner was operating.

**September 1, 2020:** As courts began to cautiously reopen and navigate the transition back to standard operations, the impact of their prior closure and the subsequent procedural complications had already left a lasting mark on the petitioner's case.

Throughout this period, not only was the petitioner navigating the logistical challenges posed by the court closures, but he was also contending with significant mental and physical injuries resulting from the defendants' actions, as well as dedicating himself to uncovering critical information about his father's neglectful care. The compounded difficulties of personal injury, the pursuit of justice amidst a global pandemic, and the limitations imposed by the judicial system's response to COVID-19 starkly illustrate the unprecedented barriers encountered.

This detailed timeline, now inclusive of the critical action taken by the petitioner to mail in his claim on **March 20, 2020**, elucidates the direct impact of the COVID-19 pandemic on the petitioner's ability to seek justice. The alignment of these dates with the pandemic's onset and the judicial system's ensuing disruptions clearly demonstrates the exceptional circumstances surrounding the petitioner's efforts. These considerations warrant the Supreme Court's intervention to ensure that the principles of fairness, equity, and justice are upheld in these extraordinary times.

- 1. Unprecedented Legal Questions and Need for Clarification:** The case at hand raises significant legal questions regarding the duty of care owed by the Veterans Administration to its patients, especially those of advanced age, and the responsibilities of the legal system to ensure access to justice for pro se litigants. The lack of coordinated care, the administration of treatment without informed consent, and the procedural barriers faced by the petitioner underscore the need for the Supreme Court to clarify the extent of these duties and the protections afforded to individuals under similar circumstances.
- 2. Systemic Failures in Veteran Healthcare:** This petition sheds light on the VA's systemic failure to provide adequate, coordinated healthcare, as evidenced by the

neglect and mistreatment of Edmund J. Janas, Sr. The documentation of this case illustrates not isolated incidents but a pattern of inadequate care and oversight that poses risks to the health and dignity of veterans nationwide. Granting this petition would prompt a necessary examination and reform of VA healthcare practices, especially concerning the integration of care between VA facilities and external providers.

3. **Barriers to Legal Representation and Access to Justice:** The petitioner's exhaustive yet futile efforts to secure legal representation highlight a disturbing bias against elderly patients and pro se litigants within the legal profession. The reasons cited by attorneys for declining the case—primarily based on the victim's age and perceived lack of economic value—expose a broader issue of access to justice for vulnerable populations. The Supreme Court's review of this case could set a precedent that addresses and mitigates these biases, ensuring that access to justice is not predicated on age or economic potential.
4. **Impact on Pro Se Litigants:** The procedural hurdles and lack of guidance experienced by the petitioner, a pro se litigant, in navigating the complex legal system to seek redress for medical negligence, highlight a critical area for judicial reform. The Supreme Court's guidance on enhancing support for pro se litigants, particularly those pursuing claims against government entities, is essential for ensuring equitable access to the courts and fair consideration of their claims.
5. **Broader Implications for Healthcare Policy and Ethics:** Beyond its immediate legal questions, this case underscores the urgent need for policy and ethical reforms in how healthcare, particularly veteran healthcare, is administered and regulated. The circumstances of this case present an opportunity for the Supreme Court to influence

healthcare policy to prioritize patient safety, informed consent, and the dignity of the elderly and those in end-of-life care.

### **Conclusion**

In conclusion, the Supreme Court's review of this petition is imperative not only to address the specific injustices faced by the petitioner and his late father but also to tackle the systemic issues revealed by their experiences. Granting this petition offers a path towards meaningful healthcare and legal system reform, reinforcing the principles of justice, dignity, and equitable access to care and legal redress. This case transcends individual grievances, touching upon fundamental questions about how our society cares for its veterans and respects the rights and contributions of its veterans, disabled and elderly citizens.

Respectfully submitted,

March 5, 2024

No. \_\_\_\_\_

IN THE  
The Supreme Court of the United States

**EDMUND J. JANAS, II — PETITIONER**

vs.

**UNITED STATES OF AMERICA, ET AL,**

**TRINITY HEALTH OF NEW ENGLAND, Mercy Medical Center - Formerly  
Riverbend; WINGATE OF SPRINGFIELD; BAYSTATE MEDICAL CENTER;  
ATLANTIC CHARTER INSURANCE COMPANY; BRUNELLE FUNERAL  
HOME; MASSHEALTH,  
— RESPONDENT(S).**

**PROOF OF SERVICE**

I, EDMUND J. JANAS, II, do swear or declare that on this date, MARCH 5, 2024 , as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents 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:

Solicitor General of the United States  
Room 5614  
Department of Justice  
950 Pennsylvania Ave., N.W.  
Washington, D. C. 20530-0001

Andrea J. Campbell  
MA Attorney General's Office  
1 Ashburton Pl  
20th Fl  
Boston, MA 02108-0000  
Email: [andrea.campbell@state.ma.us](mailto:andrea.campbell@state.ma.us)

Donald Campbell Lockhart  
US Attorney's Office  
1 Courthouse Way  
Ste 9200  
Boston, MA 02210  
Email: [USAMA.ECFAppeals@usdoj.gov](mailto:USAMA.ECFAppeals@usdoj.gov)

William P. McGovern Jr.  
Tentindo Kendall Canniff & Keefe LLP  
75 Hood Park Dr  
Boston, MA 02129  
Email: [wpm@tkcklaw.com](mailto:wpm@tkcklaw.com)

Mary Beth Murrane  
US Attorney's Office  
1 Courthouse Way  
Ste 9200  
Boston, MA 02210  
Email: [USAMA.ECFAppeals@usdoj.gov](mailto:USAMA.ECFAppeals@usdoj.gov), [mary.murrane@usdoj.gov](mailto:mary.murrane@usdoj.gov)

I declare under penalty of perjury that the foregoing is true and correct. Executed on MARCH  
5, 2024



---

(Signature)

## **TABLE OF CONTENTS OPINIONS**

BELOW.....	1
JURISDICTION.....	10
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED .....	11
STATEMENT OF THE CASE .....	13
REASONS FOR GRANTING THE WRIT .....	15
CONCLUSION.....	18

## INDEX TO APPENDICES

**Exhibit A: June 24, 2020, Order on In Forma Pauperis Status and Procedural Motions**

Marks the beginning of the petitioner's legal journey, showcasing immediate action to comply with legal procedures despite financial barriers.

**Exhibit B: February 4, 2021, Memorandum and Order on Motion Extensions, Counsel Appointment, and Sealing**

Highlights the petitioner's continuous efforts to navigate legal challenges, facing procedural denials yet persisting in seeking justice.

**Exhibit C: March 18, 2021, Order of Dismissal for Failure to Comply**

Reflects a significant hurdle, with the petitioner striving to meet the court's demands amidst the complexities of pro se litigation and pandemic disruptions.

**Exhibit D: March 23, 2021, Court Document**

Demonstrates the petitioner's engagement with court procedures, contributing to the timeline as a testament to his efforts to adhere to legal timelines.

**Exhibit E: March 24, 2021, Clerk's Certificate and Appeals Cover Sheet**

Signifies the transition to appellate proceedings, with the petitioner proactively following the appeal process despite facing unprecedented global and personal challenges.

**Exhibit F: June 24, 2020, Summons in a Civil Action**

Illustrates the formal initiation of the lawsuit, showing the petitioner's resolve to hold the defendants accountable from the onset.

**Exhibit G: March 12, 2020, Court Closing Public Notice**

Provides context for the external challenges faced, including court closures, affecting the petitioner's ability to pursue his case.

**Exhibit H: November 30, 2021, Public Notice on Court Clerk's Office Hours**

Marks a point in the timeline reflecting the gradual resumption of court operations, with the petitioner navigating these changes to continue his legal pursuit.

**Exhibit I: March 18, 2021, Order of Dismissal for Failure to Comply and Case Closure**

Another critical moment, underscoring the petitioner's challenges in meeting court requirements under extraordinary circumstances.

**Exhibit J through O: Specific Court Documents and Orders**

Each subsequent exhibit (J to O) captures key moments and decisions in the appellate process, individually highlighting the petitioner's consistent efforts to engage with each stage of the legal process timely. From addressing motions for reconsideration to responding to the court's mandates, these exhibits collectively portray a journey marked by determination and resilience in the face of procedural complexities and the additional strains of a global health crisis.

# United States Court of Appeals For the First Circuit

---

No. 21-1240

EDMUND J. JANAS, II,

Plaintiff - Appellant,

v.

DEPARTMENT OF VETERANS AFFAIRS; TRINITY HEALTH OF NEW ENGLAND,  
Mercy Medical Center - Formerly Riverbend; WINGATE OF SPRINGFIELD; BAYSTATE  
MEDICAL CENTER; ATLANTIC CHARTER INSURANCE COMPANY; BRUNELLE  
FUNERAL HOME; MASSHEALTH,

Defendants - Appellees.

---

Before

Barron, Chief Judge,  
Thompson and Kayatta, Circuit Judges.

---

## ORDER OF COURT

Entered: November 29, 2023

Now before the court is Plaintiff-Appellant's filing captioned "Motion for Reconsideration." We construe the filing as a petition for panel rehearing, and that petition is denied. See Fed. R. App. P. 40(a)(2) (governing petitions for panel rehearing). We considered each of the arguments set out in the filing. We address specifically Plaintiff-Appellant's provision of a letter that he says reflects exhaustion of administrative remedies. Plaintiff-Appellant does not suggest that he made this letter part of the district court record. See Fed. R. App. P. 10 (contents of record on appeal). Moreover, it does not appear that Plaintiff-Appellant initiated the underlying action within six months of the date the letter was sent to him via certified mail. See 28 U.S.C. § 2401(b).

DENIED.

By the Court:

**Maria R. Hamilton, Clerk**

cc:

**Edmund J. Janas II**  
**Mary Beth Murrane**  
**Donald Campbell Lockhart**  
**William P. McGovern Jr.**  
**Andrea J. Campbell**

# United States Court of Appeals For the First Circuit

No. 21-1240

EDMUND J. JANAS, II,

Plaintiff - Appellant,

v.

DEPARTMENT OF VETERANS AFFAIRS; TRINITY HEALTH OF NEW ENGLAND,  
Mercy Medical Center - Formerly Riverbend; WINGATE OF SPRINGFIELD; BAYSTATE  
MEDICAL CENTER; ATLANTIC CHARTER INSURANCE COMPANY; BRUNELLE  
FUNERAL HOME; MASSHEALTH,

Defendants - Appellees.

## MANDATE

Entered: December 7, 2023

In accordance with the judgment of April 18, 2023, and pursuant to Federal Rule of Appellate Procedure 41(a), this constitutes the formal mandate of this Court.

By the Court:

Maria R. Hamilton, Clerk

cc:

Andrea J. Campbell  
Edmund J. Janas II  
Donald Campbell Lockhart  
William P. McGovern Jr.  
Mary Beth Murrane

# United States Court of Appeals For the First Circuit

---

No. 21-1240

EDMUND J. JANAS, II,

Plaintiff - Appellant,

v.

DEPARTMENT OF VETERANS AFFAIRS; TRINITY HEALTH OF NEW ENGLAND,  
Mercy Medical Center - Formerly Riverbend; WINGATE OF SPRINGFIELD; BAYSTATE  
MEDICAL CENTER; ATLANTIC CHARTER INSURANCE COMPANY; BRUNELLE  
FUNERAL HOME; MASSHEALTH,

Defendants - Appellees.

---

Before

Barron, Chief Judge,  
Thompson and Kayatta, Circuit Judges.

---

## JUDGMENT

Entered: April 18, 2023

Plaintiff-Appellant Edmund Janas, II, appeals the district court's dismissal, without prejudice, of the underlying complaint. The district court dismissed the complaint for failure to prosecute after Janas failed to comply with a February 4, 2021, order directing him to remedy certain jurisdictional and other defects in the complaint. On appeal, Janas asserts that he never received the district court's cautionary order. However, with his appellate briefing, Janas has not demonstrated that he would have and could have addressed the very specific jurisdictional and other concerns raised by the district court if permitted to file a further amended complaint. As such, we conclude that affirmance of the district court's dismissal is in order. See Local Rule 27.0(c); cf. Williams v. United States, 858 F.3d 708, 714 (1st Cir. 2017) (court may affirm on any basis apparent from the record); Boston Duck Tours, LP v. Super Duck Tours, LLC, 531 F.3d 1, 15 (1st Cir. 2008) (considering whether remand would be efficient use of judicial resources). The pending motion to amend the operative complaint is denied. See In re Redondo Const. Corp., 678 F.3d 115, 121 (1st Cir. 2012) (this court generally will not consider claims not presented to the district court).

**Affirmed.**

**By the Court:**

**Maria R. Hamilton, Clerk**

**cc:**

**Edmund J. Janas II  
Mary Beth Murrane  
Donald Campbell Lockhart  
William P. McGovern Jr.  
Andrea J. Campbell**

# United States Court of Appeals For the First Circuit

---

No. 21-1240

EDMUND J. JANAS, II,

Plaintiff - Appellant,

v.

DEPARTMENT OF VETERANS AFFAIRS; TRINITY HEALTH OF NEW ENGLAND,  
Mercy Medical Center - Formerly Riverbend; WINGATE OF SPRINGFIELD; BAYSTATE  
MEDICAL CENTER; ATLANTIC CHARTER INSURANCE COMPANY; BRUNELLE  
FUNERAL HOME; MASSHEALTH,

Defendants - Appellees.

---

Before

Barron, Chief Judge,  
Thompson and Kayatta, Circuit Judges.

---

## ORDER OF COURT

Entered: November 29, 2023

Now before the court is Plaintiff-Appellant's filing captioned "Motion for Reconsideration." We construe the filing as a petition for panel rehearing, and that petition is denied. See Fed. R. App. P. 40(a)(2) (governing petitions for panel rehearing). We considered each of the arguments set out in the filing. We address specifically Plaintiff-Appellant's provision of a letter that he says reflects exhaustion of administrative remedies. Plaintiff-Appellant does not suggest that he made this letter part of the district court record. See Fed. R. App. P. 10 (contents of record on appeal). Moreover, it does not appear that Plaintiff-Appellant initiated the underlying action within six months of the date the letter was sent to him via certified mail. See 28 U.S.C. § 2401(b).

DENIED.

By the Court:

**Maria R. Hamilton, Clerk**

cc:

**Edmund J. Janas II**  
**Mary Beth Murrane**  
**Donald Campbell Lockhart**  
**William P. McGovern Jr.**  
**Andrea J. Campbell**

**Additional material  
from this filing is  
available in the  
Clerk's Office.**