

IN THE SUPREME COURT OF THE UNITED STATES

No. 24-5331

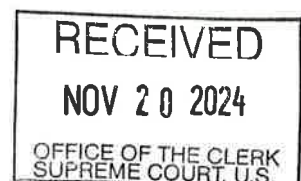
DOUGLAS JACKSON
PETITIONER,

V.

UNITED STATES DIST. CT.
RESPONDENT.

MOTION FOR REHEARING

NOW COMES, PETITIONER DOUGLAS JACKSON, IN PRO SE, REQUESTING A REHEARING FROM UNKNOWN JUDGE'S OCTOBER 15, 2024 ORDER: (1) DISMISSING HIS PETITION FOR A WRIT OF CERTIORARI UNDER UNITED STATES SUPREME COURT RULE 39.8; (2) DIRECTING ITS CLERK NOT TO ACCEPT ANY FURTHER PETITIONS IN NONCRIMINAL MATTERS FROM FROM JACKSON UNLESS THE DOCKETING FEE IS PAID; (3) AND THE PETITION IS SUBMITTED IN COMPLIANCE UNDER RULE 33.1, BECAUSE OF INTERVENING CIRCUMSTANCES OF A SUBSTANTIAL OR CONTROLLING EFFECT OR TO OTHER SUBSTANTIAL GROUNDS NOT PREVIOUSLY PRESENTED.



STATEMENT OF THE CASE

ON MAY 5, 2015, PETITIONER DOUGLAS JACKSON, FILED A PRO SE, PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 USC § 2254, ^{MICH} W PETITION WAS HELD IN ABEYANCE AND ADMINISTRATIVE CLOSED THE CASE SO JACKSON COULD RETURN TO THE STATE COURTS TO EXHAUST ADDITIONAL FEDERAL CLAIMS WHICH HAD NOT YET BEEN PRESENTED TO THE STATE COURTS. JACKSON V. PARISH, No. 2015-cv-11622 (E.D. MICH., ECF Nos. 1, 5.).

ON JUNE 15, 2018, THE DISTRICT COURT DECIDED TO LIFT THE STAY AND SET DEADLINE FOR RESPONDENT TO ANSWER JACKSON'S AMENDED HABEAS PETITION. (ECF Nos 31, 34). ON JUNE 17, 2019, RESPONDENT FILED ITS ANSWER. (ECF No. 61). ON SEPTEMBER 29, 2019, THE DISTRICT COURT DECIDED TO STAY JACKSON'S HABEAS CORPUS PROCEEDING. (ECF No. 84). ON JULY 21, 2023, JACKSON'S PETITION FOR A WRIT OF MANDAMUS WAS FILED IN THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT. THE RESPONDENT DID NOT FILE A RESPONSE.

ON MAY 16, 2024, THE COURT OF APPEALS DENIED THE PETITION FOR MANDAMUS. ON AUGUST 16, 2024, THE SUPREME COURT OF THE UNITED STATES FILED JACKSON'S PETITION FOR A WRIT OF CERTIORARI, WHICH WAS DENIED ON OCTOBER 15, 2024.

THIS PETITION FOR THE REHEARING OF THAT DENIAL FOLLOWS.

ARGUMENT

I. PETITIONER JACKSON'S PETITION FOR A WRIT OF CERTIORARI IS NOT FRIVOLOUS OR MALICIOUS.

DISCUSSION

ON MARCH 10, 2022, THE UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION (DETROIT) DENIED PETITIONER JACKSON'S MARCH 7, 2022, MOTION TO LIFT STAY. THE DISTRICT COURT DETERMINED THAT JACKSON HAD NOT APPEALED THE DENIAL OF HIS POST-CONVICTION MOTION FOR RELIEF FROM JUDGMENT TO THE MICHIGAN COURT OF APPEALS OR MICHIGAN SUPREME COURT. (SEE 3/10/22 U.S. DIST. CT. ORDER, ATTACHED AS EXHIBIT 1).

ON JULY 21, 2023, JACKSON PETITIONED THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT FOR MANDAMUS RELIEF TO COMPEL THE DISTRICT COURT TO ENFORCE HIS DUE PROCESS RIGHTS BY ORDERING THE DISTRICT COURT TO LIFT ITS SEPTEMBER 20, 2019, STAY ORDER.

PETITIONER JACKSON DOES HAVE A FIFTH AND FOURTEENTH AMENDMENT RIGHT TO DUE PROCESS. SEE U.S. CONST. AMEND. V, AND AMEND. XIV, 1.

DELAY IN ADJUDICATING A STATE PRISONER'S DIRECT CRIMINAL APPEAL MAY DO MORE THAN SIMPLY EXCUSE EXHAUSTION. IT ALSO MAY GIVE RISE TO AN INDEPENDENT DUE PROCESS CLAIM, HARRIS V. CHAMPION, 15 F3D 1538, 1557 (10TH CIR 1994). JACKSON'S HABEAS PETITION MAY BE PREDICATED ON A DUE PROCESS VIOLATION ARISING FROM THE STATE'S DELAY IN ADJUDICATING HIS DIRECT CRIMINAL APPEAL. ID.

FOLLOWING THE DISTRICT COURT'S MARCH 18, 2022 ORDER DENYING JACKSON'S MOTION TO LIFT STAY THE WAYNE COUNTY CIRCUIT COURT ADJUDICATED HIS MOTION ON REMAND AND HE APPEALED THE DENIAL OF THE MOTION TO THE MICHIGAN APPELLATE COURTS. (SEE 6/02/23 WAYNE CNTY. CIR. CT. OPINION AND ORDER; 12/13/23 MICH. CT. APP. ORDER; 4/05/24 MICH. SUP. CT. ORDER, ATTACHED AS EXHIBIT 2).

28 USC § 2254 (c), REQUIRES ONLY THAT STATE PRISONERS GIVE STATE COURTS A FAIR OPPORTUNITY TO ACT ON THEIR CLAIMS. CASTILLE V. PEOPLES, 489 US 346, 351 (1989); PICARD V. CONNOR, 404 US

270, 275-276 (1971). THE CLAIMS THAT JACKSON HAS FAIRLY GIVEN THE MICHIGAN STATE COURTS A FAIR OPPORTUNITY TO ACT ON, INCLUDING HIS DUE PROCESS CLAIM, ARE ATTACHED AS EXHIBIT 3.

A HABEAS PETITIONER WHO MAKES FREQUENT BUT UNAVAILING REQUESTS TO HAVE HIS APPEAL PROCESSED IN THE STATE COURT IS NOT REQUIRED TO TAKE FURTHER FUTILE STEPS IN STATE COURT IN ORDER TO BE HEARD IN FEDERAL COURT, EVEN IF THE STATE COURT, AS IN JACKSON'S CASE, SUBSEQUENTLY DECIDES TO REMAND THE APPEAL TO THE STATE TRIAL COURT. TURNER V. BAGLEY, 401 F3D 718, 726 (6TH CIR. 2005); LUKAS V. MICHIGAN, 420 F2D 259, 262 (6TH CIR. 1970).

ON SEPTEMBER 22, 2022, THE DISTRICT COURT DENIED JACKSON'S MOTION TO LIFT THE PROTRACTED STAY. HE APPEALED THE DENIAL IN THE COURT OF APPEALS WHOM DETERMINED THAT IT LACKED JURISDICTION BECAUSE IT DECIDED THAT A DISTRICT COURT'S DECISION TO GRANT OR DENY A STAY OF ITS OWN PROCEEDINGS IS NOT ORDINARILY A FINAL DECISION. SEE JACKSON V. HOFFMAN, No. 23-2065 (U.S. CT. APP. FEB 1, 2024). HENCE, THE COURT OF APPEALS DECIDED THAT JACKSON CANNOT APPEAL THE DISTRICT COURT'S REFUSAL TO LIFT ITS STAY EVEN THOUGH PRIOR TO ITS FEBRUARY 1, 2024, ORDER, THE WAYNE

CIRCUIT COURT HAD ALREADY DENIED HIS MOTION FOR RELIEF FROM JUDGMENT AND HE HAD APPEALED SUCH DENIAL.

HOWEVER, ON MAY 16, 2024 THE COURT OF APPEALS SAID: "JACKSON HAS AN ADEQUATE ALTERNATIVE TO MANDAMUS RELIEF IN THE FORM OF AN APPEAL FROM THE DISTRICT COURT'S DENIAL OF HIS MOTION TO LIFT THE STAY." HOWEVER, U.S. CIRCUIT COURT JUDGE JOHN K. BUSH, KNEW OR SHOULD HAVE KNOWN THAT THAT RULING WAS ERRONEOUS AND CONFLICTED WITH HIS JUDGMENT IN JACKSON V. HOFFMAN, SUPRA, WHEREIN JUDGE BUSH DECIDED THAT JACKSON COULD NOT APPEAL FROM THE DISTRICT COURT'S DENIAL OF A MOTION TO LIFT STAY BECAUSE SUCH A DENIAL IS NOT A FINAL DECISION. THE SIXTH CIRCUIT HAS HELD THAT A PANEL OF JUDGES CANNOT OVERTURN A DECISION OF ANOTHER PANEL. UNITED STATES V. LANIER, 201 F3D 842, 846 (6TH CIR. 2000).

ADDITIONALLY, THE COURT OF APPEALS' MAY 16, 2024 ORDER ERRONEOUSLY DECIDED THAT JACKSON HAS NOT SHOWN THAT HE IS CLEARLY AND INDISPUTABLY ENTITLED TO THE MANDAMUS WRIT, BUT BEFORE THE COURT OF APPEALS' MAY 16, 2024 ORDER JACKSON HAD ALL-READY GIVEN THE STATE COURTS A FAIR OPPORTUNITY TO APPLY CONTROLLING LEGAL PRINCIPLES TO THE FACTS BEARING ON HIS FEDERAL CONSTITUTIONAL

CLAIMS AND THAT'S ALL 28 USC § 2254 (c) REQUIRES. SEE, E.G., O'SULLIVAN V. BOERCKEL, 526 US 838, 845 (1999) (GRANTED, AS BOERCKEL CONTENDS, ... HE HAS NO RIGHT TO REVIEW IN THE ILLINOIS SUPREME COURT, BUT HE DOES HAVE A RIGHT ... TO RAISE HIS CLAIMS BEFORE THAT COURT. THAT IS ALL § 2254 (c) REQUIRES.). 28 USC § 2254 (c). (SEE 2/01/24 AND 5/16/24 U.S. CT. APP. ORDERS, ATTACHED AS EXHIBIT.4).

THEREFORE, AS ESTABLISHED ABOVE, JACKSON'S PRO SE PETITION FOR WRIT OF CERTIORARI CONTAINS A LEGAL POINT AND AN ARGUABLE BASIS IN LAW AND IN FACT. INDEED, BECAUSE JACKSON HAS RAISED HIS CLAIMS IN THE MICHIGAN APPELLATE COURTS AFTER THEY WERE DENIED IN WAYNE CIRCUIT COURT IT IS APPROPRIATE FOR THE FEDERAL COURTS TO TAKE A FRESH LOOK AT THE ISSUE OF WHETHER THE INORDINATE 9 YEAR DELAY IN JACKSON'S STATE POST-CONVICTION PROCEEDING IS A CIRCUMSTANCE RENDERING HIS STATE REMEDIES INEFFECTIVE TO PROTECT JACKSON'S RIGHTS WHERE THE STATE IS RESPONSIBLE FOR THE DELAY IN GIVING "PROMPT" CONSIDERATION TO JACKSON'S CLAIMS OF VIOLATION OF HIS FEDERAL CONSTITUTIONAL RIGHTS. (SEE TIME LINE COMPUTATION, ATTACHED

AS EXHIBIT 5).

FOR ALL OF THE ABOVE REASONS THE COURT SHOULD DECIDE THAT JACKSON'S CERTIORARI PETITION IS NOT FRIVOLOUS OR MALICIOUS.

ARGUMENT

II. PETITIONER JACKSON HAS NOT REPEATEDLY ABUSED THE SUPREME COURT OF THE UNITED STATES' PROCESS.

DISCUSSION

AN UNKNOWN SUPREME COURT OF THE UNITED STATES JUDGE HAS ERRONEOUSLY AND UNREASONABLY DECIDED THAT JACKSON HAS REPEATEDLY ABUSED THE COURT PROCESS, BUT FAILED TO IDENTIFY OR EXPLAIN HOW, OR IDENTIFY THE NUMBER OF SEPARATE PETITIONS, APPEALS, AND APPLICATIONS THAT JACKSON HAS FILED THIS TERM OR ANY OTHER TERM FOR THE JUDGE'S USE OF THE PHRASE "REPEATEDLY." MOREOVER, JACKSON DOES NOT RECALL RECEIVING A WARNING FROM THE COURT THAT HE MAY BE SANCTIONED IN SUCH A HARSH MANNER.

THUS, UNDER THE CIRCUMSTANCES IT IS NOT UNREASONABLE, HERE, FOR THE COURT TO DECIDE THAT IT WAS INAPPROPRIATE FOR THE JUDGE TO ENTER AN ORDER DIRECTING THE CLERK OF THE SUPREME COURT NOT TO ACCEPT ANY FURTHER PETITIONS FROM JACKSON IN NONCRIMINAL MATTERS UNLESS HE PAY DOCKETING FEES.

IN INVOKING SUPREME COURT RULE 39.8 TO DENY PRO SE PETITIONER JAMES L. MARTIN'S, REQUEST FOR LEAVE TO PROCEED IN FORMA PAUPERIS ON PETITION FOR WRIT OF CERTIORARI, SUPREME COURT REASONED THAT MARTIN HAD FILED 45 PETITIONS WITH THE UNITED STATES SUPREME COURT OVER A 10-YEAR PERIOD AND IS IN THE LAST 2 OF THOSE YEARS ALONE WITH RESPECT TO 8 CASES, AND HAD HAD ALL OF THOSE PETITIONS DENIED WITHOUT RECORDED DISSENT, WAS DENIED LEAVE TO PROCEED IN FORMA PAUPERIS PURSUANT TO SUPREME COURT RULE 39.8 WITH THE WARNING THAT FUTURE SIMILAR FILINGS WOULD MERIT ADDITIONAL MEASURES. ZATKO V. CALIFORNIA, 502 US 16 (1991).

WITHIN THE YEAR FOLLOWING THAT DENIAL, MARTIN FILED 9 FURTHER PETITIONS FOR CERTIORARI, AND THE SUPREME COURT DENIED 5 OF THOSE PETITIONS OUTRIGHT AND DENIED MARTIN LEAVE TO PROCEED IN FORMA PAUPERIS WITH RESPECT TO THE OTHERS, BRINGING THE TOTAL NUMBER OF PETITIONS MARTIN HAS FILED IN THE PAST YEAR TO 11. MARTIN V.

DISTRICT OF COLUMBIA COURT OF APPEALS, 506 US 1 (1992), ALL OF MARTIN'S FILINGS WERE DEMONSTRABLY FRIVOLOUS. ID.

IN INVOKING RULE 39.8 TO DENY INDIVIDUAL'S REQUEST FOR LEAVE TO PROCEED IN FORMA PAUPERIS ON PETITION FOR EXTRAORDINARY WRIT, SUPREME COURT, FOR REASONS DISCUSSED IN MARTIN, SUPRA, DIRECTED CLERK OF SUPREME COURT NOT TO ACCEPT ANY FURTHER PETITIONS FOR CERTIORARI OR EXTRAORDINARY WRITS IN NONCRIMINAL MATTERS FROM INDIVIDUAL UNLESS INDIVIDUAL SUBMITTED DOCKETING FEE REQUIRED BY SUPREME COURT RULE 38 AND SUBMITTED PETITION IN COMPLIANCE WITH RULE 33.1, WHERE

(1) INDIVIDUAL HAD FILED, IN SUPREME COURT, 11 PREVIOUS PETITIONS FOR EITHER CERTIORARI OR EXTRAORDINARY WRITS, INCLUDING PETITION WITH RESPECT TO WHICH, EARLIER DURING CURRENT TERM, COURT HAD INVOKED RULE 39.8 TO DENY INDIVIDUAL LEAVE TO PROCEED IN FORMA PAUPERIS, AND (2) ALL PREVIOUS PETITIONS HAD BEEN DEEMED FRIVOLOUS BY COURT AND HAD BEEN DENIED WITHOUT RECORDED DISSENT. IN RE KENNEDY, 142 LED 2D 573, 119 S CT 635 (1999).

IN INVOKING SUPREME COURT RULE 39.8 TO DENY INDIVIDUAL'S REQUEST FOR LEAVE TO PROCEED IN FORMA PAUPERIS ON PETITION FOR CERTIORARI OR FOR EXTRAORDINARY WRITS IN NONCRIMINAL MATTERS FROM

INDIVIDUAL UNLESS INDIVIDUAL SUBMITTED DOCKETING FEE REQUIRED BY RULE 38 AND SUBMITTED PETITION IN COMPLIANCE WITH RULE 33-1, FOR REASONS DISCUSSED IN MARTIN, SUPRA, SUPREME COURT, DIRECTED CLERK OF SUPREME COURT NOT TO ACCEPT ANY FURTHER PETITIONS FOR CERTIORARI, WHERE (1) TWICE EARLIER IN CURRENT TERM, COURT HAS INVOKED RULE 39.8 TO DENY INDIVIDUAL IN FORMA PAUPERIS STATUS; AND (2) ACCORDING TO COURT, (a) INSTANT PETITION WAS INDIVIDUAL'S THIRTEENTH FRIVOLOUS FILING WITH COURT, AND (b) INDIVIDUAL HAD FOUR ADDITIONAL FRIVOLOUS FILINGS PENDING BEFORE COURT. RINERA V. FLORIDA DEPT OF CORRECTIONS, 143 L ED 2D 235, 119 SCT 1166 (1999).

BECAUSE JACKSON'S PETITION FOR WRIT OF CERTIORARI DID NOT RISE TO THE LEVEL OF ABUSE AS THE ABOVE IDENTIFIED SUPREME COURT CASES, LISA NESBITT AND THE UNIDENTIFIED JUDGE ERRED BY IMPOSING THE SANCTIONS IN THE OCTOBER 15, 2024 ORDER ATTACHED.

WITHOUT IDENTIFYING THE PARTICULAR TYPE OF RELIEF JACKSON REQUESTED IN THE PAST, THE JUDGE FURTHER ERRED BY DIRECTING LISA NESBITT NOT TO ACCEPT FURTHER PETITIONS IN NONCRIMINAL MATTERS

FROM HIM UNLESS THE DOCKETING FEE IS PAID.

HOWEVER, IN IN RE DEMOS, A PERSON FROM WHOM THE CLERK OF THE SUPREME COURT HAD BEEN DIRECTED BY THE SUPREME COURT NOT TO ACCEPT ANY FURTHER PETITIONS IN FORMA PAUPERIS FOR EXTRAORDINARY WRITS -- WHERE THE PERSON HAD ABUSED THE JUDICIAL SYSTEM BY MAKING 32 IN FORMA PAUPERIS FILINGS IN THE SUPREME COURT DURING A PERIOD OF LESS THAN 3 YEARS AND BY FILING, IN THE SUPREME COURT, THREE PETITIONS, INCLUDING TWO FOR EXTRAORDINARY WRITS, SEEKING RELIEF FROM A SINGLE ORDER OF A LOWER COURT --

WAS HELD BY THE SUPREME COURT TO REMAIN FREE TO FILE IN FORMA PAUPERIS REQUESTS FOR RELIEF OTHER THAN AN EXTRAORDINARY WRIT, IF THE PERSON QUALIFIED FOR FORMA PAUPERIS FILING UNDER SUPREME COURT RULE 39 AND DID NOT SIMILARLY ABUSE THAT PRIVILEGE. IN RE DEMOS, 500 US 16 (1991). SEE ALSO IN RE ANDERSON, 128 LED 2D 332, 114 SCT 1606 (1994); IN RE GAYDOS, 136 LED 2D 369 (1996).

BECAUSE THE RECORD DOES NOT SHOW THAT JACKSON ABUSED THE SUPREME COURT'S EXTRAORDINARY WRIT PROCEDURES, THE JUDGE'S ORDER DIRECTING THE CLERK NOT TO ACCEPT SUCH PETITIONS IN NON-CRIMINAL MATTERS FROM JACKSON IS UNREASONABLE AND ARBITRARY.

MOREOVER, THE JUDGE'S ORDER DOES NOT SAY THAT JACKSON IS AN ABUSER OF THE SUPREME COURT'S CERTIORARI PROCESS, AND/OR THE ABUSE HAD BEEN IN NONCRIMINAL CASES.

LASTLY, WITH RESPECT TO JACKSON'S FUTURE PETITION COMPLYING WITH RULE 33.1, JACKSON IS NOT A LAWYER OR PARALEGAL. JACKSON HAS AN EIGHTH GRADE EDUCATION. JACKSON IS IN PRISON AT BARAGA CORRECTIONAL FACILITY (AMF) WHEREIN PRISONERS ARE NOT ALLOWED TO ATTEND LAW LIBRARY FOR REASONS UNKNOWN TO JACKSON. JACKSON DOES NOT HAVE ACCESS TO MATERIAL TO PREPARE A BOOKLET.

JACKSON DOES NOT HAVE ACCESS TO HOT METAL, PHOTOCOMPOSITION, OR COMPUTER TYPESETTING (WHAT EVER THOSE ARE). IN SHORT, DUE TO JACKSON'S UNCONSTITUTIONAL CUSTODY RESULTING FROM THE MICHIGAN COURT OF APPEALS' 2011 JUDGMENT, JACKSON IS UNABLE TO COMPLY WITH RULE 33.1. SINCE "2015," JACKSON HAS BEEN ATTEMPTING TO GET A STATE OR FEDERAL COURT TO REVIEW THE NONFRIVOLOUS MERITORIOUS FEDERAL GROUNDS FOR RELIEF WHICH HE HAS PRESENTED TO SUCH COURTS, ONLY TO RECEIVE ERRONEOUS STATE COURT RULINGS CONCERNING PROCEDURE.

RELIEF

FOR ALL OF THE FOREGOING REASONS, AND DUE TO INTERVENING CIRCUMSTANCES OF A SUBSTANTIAL OR CONTROLLING EFFECT OR TO OTHER SUBSTANTIAL GROUNDS NOT PREVIOUSLY PRESENTED, THE COURT SHOULD VACATE THE COURT'S OCTOBER 15, 2024 ORDER IN ITS ENTIRETY AND REMAND THE MATTER BACK TO THE DISTRICT COURT FOR DETERMINATION WHETHER EXHAUSTION IS STILL REQUIRED AFTER JACKSON HAS NOW APPEALED THE WAYNE COUNTY CIRCUIT COURT'S DENIAL OF POST-CONVICTION RELIEF TO BOTH OF MICHIGAN'S APPELLATE COURTS.

RESPECTFULLY SUBMITTED,

DATED: NOVEMBER 4, 2024

/S/ DOUGLAS JACKSON
IN PRO SE

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**Additional material
from this filing is
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