Case No.: 24-5541

IN THE SUPREME COURT OF THE UNITED STATES

ORIGINAL

IN RE JOE NATHAN PYATT JR., PETITIONER.

ON PETITION TO THE SUPREME COURT OF THE UNITED STATES FROM THE ELEVENTH CIRCUIT COURT OF APPEALS

PETITION FOR AN EXTRAORDINARY WRIT IN THE NATURE OF MANDAMUS

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I. QUESTIONS PRESENTED

Mr. Pyatt will be presenting two pure questions of law and one mixed question of law and fact for review in this Petition material to his criminal proceeding moving forward. The questions presented are as follows;

1. Does the United States Supreme Court have authority to issue a Writ of Mandamus pursuant to the All Writs Act, 28 USC 1651 to compel its own Clerk of the Court to perform a non-discretionary act?

2. Does a United States Court of Appeals have authority pursuant to the All Writs Act, 28 USC 1651 to compel its own Clerk of the Court to perform a duty owed to a party?

3. If a motion is pending by a party to litigate his own appeal, does the Clerk of the Court have a clear duty to accept filings from the party, in light of 11th Cir. R. 25-1, to act on matters where the obligation to act, by the Court, is statutory and not discretionary?

II. PARTIES TO THE PROCEEDINGS

The parties to the proceedings are as follows:

The Petitioner, Joe Nathan Pyatt Jr. ("Mr. Pyatt"), is the Defendant in the United States District Court for the Southern District of Florida and the Appellant in the United States Court of Appeals for the Eleventh Circuit.

The Respondent. The Clerk of the Court for the Eleventh Circuit Court of Appeals is the Clerk appointed for the administration of the Court.

III. RELATED PROCEEDINGS BELOW

1. UNITED STATES v. JOE NATHAN PYATT JR., Case no.: 22-cr-20138 (S. D. Fla. 2022)

The criminal case has been stayed pending the resolution of an appeal in the Eleventh Circuit Court of Appeals.

2. UNITED STATES v. JOE NATHAN PYATT JR., Case no.: 23-11626 (11th Cir. 2023)

This is an interlocutory appeal from the United States District Court for the Southern District of Florida and is currently still pending resolution.

3. In Re. JOE NATHAN PYATT JR., Case No.: 24-12071 (11th Cir. 2024)

This Petition for a Writ of Mandamus in the Eleventh Circuit Court of Appeals was denied.

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V. TABLE OF AUTHORITIES

1. Bartuli v. Board of Trustees, 434 U.S. 1337, 1339, 98 S. Ct. 21, 54 L. Ed. 2d 52 (1977)

2. Burlington Northern R. Co. v. Woods, 480 U.S. 1, 5, 107 S. Ct. 967, 94 L. Ed. 2d 1 (1987)

3. Cheney v. U.S. Dist. Court for Dist. of Columbia, 542 U.S. 367, 404, n.8, 124 S. Ct. 2576, 159 L. Ed. 2d 459 (2004)

4. Coppedge v. United States, 369 U.S. 438, 441, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962)

5. Ex parte United States, 287 U.S. 241, 245, 53 S. Ct. 129, 77 L. Ed. 1185 (1932)

6. Marbury v. Madison, 1 Cranch 137, 168, 2 L. Ed. 60 (1803)

7. McCollum Aviation, Inc. v. Cim Associations, Inc., 438 F. Supp. 245, 248, n.2 (S.D. Fla. 1977)

8. Roche v. Evaporated Milk Assn., 319 U.S. 21, 26, 63 S. Ct. 938, 87 L. Ed. 1185 (1943)

9. United States v. Baker, 807 F. 2d 1315, 1320 (6th Cir. 1986)

10. United States v. Choi, 818 F. Supp. 2d 79, 86-87 (D. D. C. 2011)

11. United States v. Donofrio, 896 F. 2d 1301, 1303 (11th Cir. 1990)

12. United States ex rel. Girard Trust Co. v. Helvering, 301 U.S. 540, 544, 81 L. Ed. 1272 (1937)

13. Virginia v. Rives, 100 U.S. 313, 327, 25 L. Ed. 664 (1880)

VI. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. The All Writs Act, 28 USC 1651, 62 Stat. 944 (1948)

2. Federal Rules of Appellate Procedure, Eleventh Circuit Rule 25-1

VII. STATEMENT OF JURISDICTION

This Court has jurisdiction pursuant to 28 USC 1651(a) consistent with S. Ct. R. 20(1) to review this Petition by means of a Supervisory Mandamus proceeding for review of an Order of the Court in a collateral proceeding from the Eleventh Circuit Court of Appeals that was entered on July 24th, 2024. See Appendix I.

Moreover, this Court can assert appellate jurisdiction to invoke Supervisory Mandamus pursuant to 28 USC 1651(a) and issue a Writ of Mandamus directed to the Clerk of the Court, and not the Court of Appeals for the Eleventh Circuit, to compel and constrain the Clerk from taking specific action.

Mr. Pyatt notes that he does not seek relief in the form of a Writ of Certiorari pursuant to 28 USC 1254(1) (emphasis added).

VIII. STATEMENT OF THE CASE

A. Procedural History and Background

Mr. Pyatt docketed an appeal to the United States Court of Appeals for the Eleventh Circuit on or around May 15th, 2023. See United States v. Joe Nathan Pyatt Jr., Appeal No.: 23-11626 (11th Cir. 2023), ECF 1. A motion was filed by Mr. Pyatt to litigate his own appeal and has been pending resolution since July 20th, 2023. Since then, there have been developments in the criminal court case that have prompted Mr. Pyatt to file motions to address the urgent matters. First, the district court order authorizing the Attorney General to hold Mr. Pyatt in custody pursuant to 18 USC 4241(d)(1) expired on September 18th, 2023, and no other order was sought for an extension of time pursuant to 18 USC 4241(d)(2). See United States v. Joe Nathan Pyatt Jr., Case No.: 22-cr-20138 (S. D. Fla. 2022), ECF 44.

As such, Mr. Pyatt has been attempting to request his immediate discharge from his current facility and to be transferred back to Miami, Florida, pending resolution of the appeal. Second, and lastly, Mr. Pyatt has been attempting to address the indictment for purposes of release. Notwithstanding the pending resolution of the current appeal, the only authority the district attorney has to hold Mr. Pyatt in continued custody before trial is count III of the indictment. Mr. Pyatt has exceeded the USSG range for counts 1 and II of the indictment. Similarly, Mr. Pyatt has been charged with one count of cyber harassment in violation of 18 USC 2261A(2)(A), which if convicted, mandates a sentencing guideline, as-applied to Mr. Pyatt's criminal history and background, of 27-33 months pursuant to USSG 2A6.2.

To date, Mr. Pyatt has been incarcerated for approximately 29 months as of August 25th, 2024. Consequently, causing an attempt to have the Eleventh Circuit Court of Appeals re-vest the district court with jurisdiction so that the Court may rule on a motion for release that incorporates the aforementioned developments. See In Re. Joe Nathan Pyatt Jr., Case No.: 24-12071 (11th Cir. 2024). The Eleventh Circuit Court of Appeals denied the writ, albeit through the denial of the accompanying motion to proceed in forma pauperis ("IFP"). Mr. Pyatt now petitions this Court for review of the proceedings below and for relief in the form of a Writ of Mandamus to compel and constrain the Clerk of the Court for the Eleventh Circuit Court of Appeals from taking a "No Action" to Mr. Pyatt's filing that address his custody.

IX. ARGUMENT

B. The All Writs Act, Authority to Issue Writ

To understand the questions presented, Mr. Pyatt must first start with whether the Supreme Court can issue a Writ of Mandamus to its own Clerk and this analysis should start with the language of the statute. The All Writs Act states that "[T]he Supreme Court and courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 USC 1651.

The predecessor to this statute, section 342, also provides that "[T]he Supreme Court shall have power to issue. . .writs of mandamus, in cases warranted by the principles and usages of law, to any courts appointed under the authority of the United States, or persons holding office under the authority of the United States." See History, Ancillary Laws and Directives, 28 USC 1651.

However, this language is ambiguous as to whether the Supreme Court can issue a Writ of Mandamus to its own Clerk of the Court. The authority to issue the Writ of Mandamus may be derived by resorting to the legislative history of the common law writ.

The Supreme Court has defined "[M]andamus to be a command issuing. . .and directed to any person. . .requiring them to do some particular thing therein specified, which appertains to their office and duty, and. . .to be consonant to right and justice. . .Whenever. . .there is a right to execute an office, perform a service. . .and a person. . .has no other specific legal remedy, this court ought to assist by mandamus, upon reasons of justice. . .and upon reasons of public policy, to preserve peace, order and good government." Marbury v. Madison, 1 Cranch 137, 168, 2 L. Ed. 60 (1803) (internal citation and quotation marks omitted).

The Supreme Court further elaborated that "[T]his writ, if awarded, would be directed to an officer of government, and its mandate to him would be. . .to do a particular thing therein specified, which appertains to his office and duty, which the court has previously determined. . .to be consonant to right and justice. . .Still, to render the mandamus a proper remedy, the officer to whom it is to be directed, must be one whom, on legal principles, such writ may be directed". Marbury, 1 Cranch 137, at 169 (emphasis added). The Clerk of the Court for the Supreme Court falls within reach of the Writ of Mandamus because "[I]t is not by the office of the person to whom the writ is directed, but the nature of the thing to be done, that the propriety or impropriety of issuing a mandamus is to be determined." Marbury, 1 Cranch 137, at 170 (internal quotation marks omitted).

The power of the Supreme Court for this excise of authority has been established through the 19th century when this Court stated that "[T]he Judiciary Act of 1789, 1 Stat. at L., 73, passed at the first session of Congress after the adoption of the Constitution, declared that the Supreme Court should have appellate jurisdiction from the circuit courts and from courts of the several States in certain cases and should. . .[h]ave power to issue. . .writs of mandamus in cases warranted by the principles and usages of law, to any courts appointed or persons holding office under the authority of the United States." Virginia v. Rives, 100 U.S. 313, 327, 25 L. Ed. 664 (1880).

The development of the Office of Mandamus continued into the 20th century when the Supreme Court explained that "[S]ection 716, Rev. Stat. (262 of the Judicial Code, U.S.C. title 28, 377), provides that this court and other federal courts shall have power to issue all writs not specifically provided for by statute, which may be necessary for the exercise of their respective jurisdictions, and agreeable to the usages and principles of law. As early as 1831 it was settled that this court had power to issue a mandamus directed to a federal circuit court. . .such action being in the nature of appellate jurisdiction." Ex parte United States, 287 U.S. 241, 245, 53 S. Ct. 129, 77 L. Ed. 283 (1932) (internal quotation marks omitted).

While continuing to explain that "[T]he power to issue the writ under Rev. Stat. 716 is not limited to cases where its issue is required in aid of a jurisdiction already obtained. . .We prefer, however, to put our determination upon the broader ground that, even if the appellate jurisdiction of this court could not in any view be immediately and directly invoked, the issue of the writ may rest upon the ultimate power which we have to review the case itself by certiorari to the circuit court of appeals in which such immediate and direct appellate jurisdiction is lodged." Ex parte United States, 287 U.S. at 246. See also Marbury, 1 Cranch 137, at 175 (The Supreme Court holding that "[W]hen [the Constitution]. . .organizing fundamentally a judicial system, divides it into one supreme, and so many inferior courts as the legislature may ordain and establish; then enumerates its powers, and proceeds so far to distribute them, as to define the jurisdiction of the Supreme Court by declaring the cases in which it shall take original jurisdiction, and that in others it shall take appellate jurisdiction; the plain import of the words seems to be, that in one class of cases its jurisdiction is original, and not appellate; in the other it is appellate, and not original. . .To enable this court, then, to issue a mandamus, it must be shown to be an exercise of appellate jurisdiction, or to be necessary to enable them to exercise appellate jurisdiction. . .It is the essential criterion of appellate jurisdiction, that it revises and corrects the proceedings on a cause already instituted, and does not create that cause. Although, therefore, a mandamus may be directed to courts, yet to issue such a writ to an officer. . .is in effect the same as to sustain an original action. . .and, therefore, seems not to belong to appellate but to original jurisdiction").

Given that jurisdiction unequivocally exist for the Supreme Court to issue a writ of mandamus to any persons holding office under authority of the United States, this Court provided further clarity with respect to whether the Clerk of the Court of the Supreme Court is subject to the power of mandamus when the Court stated that "[N]or was the language [of the Judiciary Act] intended to deny that this court can issue the writ to judicial officers where the object is to revise and correct their action in legal proceedings pending in the courts held by them." Rives, 100 U.S. at 328 (emphasis added). This is especially true when taking the supervisory function of the Supreme Court in relation to its own Clerk of the Court because "[T]he reason assigned is that, in case of disobedience to the writ, the authority to enforce it is exercised over the [Clerk]. . .personally who are vested with the power of exercising the functions of the court." id.

The Clerk of the Court is appointed for civil service as an "officer" as defined by 5 USC 2104 which in its relevant part states the following;

(a) For the purpose of this title, "officer". . .means a justice or judge of the United States and an individual who is--
(1) required by law to be appointed in the civil service by. . .(B) a court of the United States
(2) engaged in the performance of the Federal function under authority of law. See 5 USC 2104. See also 5 USC 2101(1) (Providing that "[F]or purpose of this title. . .the "civil service" consists of all appointive positions in the executive, judicial, and legislative branches of the Government of the United States.); 28 USC 671(a) (Providing that "[T]he Supreme Court may appoint. . .a clerk and one or more deputy clerks.")

Thus, since the Clerk of the Court is an "officer" then that entails that the Clerk is subject to the power of mandamus, issued under authority of the Supreme Court, because "[T]his writ, if awarded, would be directed to an officer of government." Marbury, 1 Cranch 137, at 169 (emphasis added).

C. Authority of a Court of Appeals

Given that the Clerk of the Court is an "officer" that is within reach of the Office of Mandamus, then, the next question subsequent to this revelation is whether or not a United States Court of Appeals shares the same authority as the Supreme Court to issue a Writ of Mandamus to its own Clerk. The Eleventh Circuit Court of Appeals denied Mr. Pyatt's Writ of Mandamus directed to its own Clerk because, on one ground, the circuit judges' reasoning concluded that "[S]imilarly, to the extent he requests that this Court compel its own Clerk to accept motions, this request is not cognizable because he is not requesting that the Court compel an inferior federal court." See Order of the Court at 3, Appendix I.

Mr. Pyatt argues, to this point, it is true that "[T]he traditional use of the writ in aid of appellate jurisdiction both at common law and in the federal courts has been to confine an inferior court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so." Roche v. Evaporated Milk Assn., 319 U.S. 21, 26, 63 S. Ct. 938, 87 L. Ed. 1185 (1943). However, the common law history of the Writ of Mandamus does not necessarily restrict a Court of Appeals from issuing the writ to its own Clerk of the Court.

After it was recognized in Marbury v. Madison that the Supreme Court could exercise an appellate function of reviewing and revising a judicial proceeding and to compel any officer of the United States to perform a ministerial duty through the vehicle of Mandamus, subsequent legislation conferred upon the Court of Appeals this same authority. To derive this authority, beginning with 13 of the Judiciary Act of 1789 to Rev. Stat. 688 (1873) leading up to 234 of the Judicial Code in 1911, 35 Stat. 1156, the Supreme Court was authorized by the Congress to exercise "[W]ithout change, this special appellate power of the Supreme Court of the United States, by way of the writ of mandamus, over any courts appointed under the authority of the United States; and Rev. Stat. 688 was formally repealed by 297, 36 Stat. 1168. . .When Congress came to codify Title 28 in 1948, it enacted in 1651(a) thereof the so-called all writs provision, applicable not only to the Supreme Court but also to all courts established by act of Congress. . .Thus it seems that since 1948 Congress has withdrawn from the Supreme Court its special appellate power to supervise proceedings in the lower federal courts by means of the writ of mandamus; so that all federal courts, including the Supreme Court, are now limited to the issuance of all writs necessary or appropriate in aid of their respective jurisdiction." In re. Josephson, 218 F. 2d 174, 179 (1st Cir. 1954) (internal quotation marks omitted).

The Court of Appeals further establishing that "[A]longside the provision in 13 of the Judiciary Act of 1789. . .which was a special grant of power to the Supreme Court alone, was 14, 1 Stat. 81, empowering the circuit and district courts of the United States, as well as the Supreme Court, to issue writs. . .not specifically provided for by statute, which may be necessary for the exercise of their respective jurisdictions, and agreeable to the principles and usages of law. This provision of 14 was the precursor of the Present-day all writs section. It was carried forward in substance, in Rev. Stat. 716 and thence into 262 of the Judicial Code of 1911, 36 Stat. 1162, and finally, in 1948, into 1651(a) of the codified Title 28 USC, 62 Stat. 944." In re. Josephson, 218 F. 2d at 179.

Congress enacted 1651(a) to include the same authority the Supreme Court exercised since 13 of the Judiciary Act of 1789 over "officers" of the United States in the issuance of "[W]rits of mandamus in cases warranted by the principles and usages of law, to any. . .persons holding office, under the authority of the United States." Madison, 1 Cranch 137 at 173.

The Court of Appeals inherited this equivalent authority pursuant to 28 USC 1651 with respect to "officers" of the United States within the Office of Mandamus to constrain and compel.

With respect specifically to issuance of the writ by the Court of Appeals to its own Clerk, support for this argument can be found in United States v. Choi in where the district court ruled that "[A]lthough exceptions exist, the All Writs Act generally applies only when a true superior court - the Supreme Court, or a circuit court of appeals - issues a writ of mandamus to a true inferior court, primarily a district. . .Accordingly, the Court holds that the All Writs Act permits district courts to issue writs of mandamus to magistrate judges when, under the applicable statutes and rules, the district court sits in an appellate capacity vis a vis the magistrate." United States v. Choi, 818 F. Supp. 2d 79, 86-87 (D. D. C. 2011). Like the Court in Choi, the Court of Appeals sits in a quasi-appellate capacity to the Clerk of the Court when the Clerk's decisions is subject to review by the Court. See e.g. 11th Cir. R. 27-1(c) (Providing that "[T]he clerk is authorized, subject to review by the court, to act for the court on the following unopposed procedural motions.")

The Clerk of the Court is an "officer" that can act independently within the respective jurisdiction of the Court of Appeals and as such, the writ mandates that all officers appointed to office "under the authority of the United States" be subjected to the power of Mandamus, issued under Authority of a Court of Appeals. See Madison, 1 Cranch 137 at 173 (emphasis added).

D. Clear Right to Issuance, Clear Duty to Act

At bottom, Mr. Pyatt is requesting that he may address a court order that has expired in violation of 18 USC 4241(d)(1). The district court issued an order allowing the Attorney General to hold Mr. Pyatt in custody "not to exceed four months". See 4241 (d)(1). The statutory scheme of this statute and also what was agreed upon between the parties in the instant case, notwithstanding Mr. Pyatt's objection, mandates that if at the end of the four months allotted to the Attorney General, more time is requested, then a hearing must be held pursuant to 18 USC 4241(c) within the provisions of 18 USC 4247(d). If after the hearing the Court rules in favor of the Attorney General then the Court will issue another court order for "[A]n additional reasonable period of time". See 18 USC 4241(d)(2).

To date, the Attorney General has not sought any additional time to hold Mr. Pyatt in continued custody and as such, the court order issued by the district court expired on September 18th, 2023. See Pyatt, 22-cr-20138, ECF 44. The district court does not have discretion to grant additional time to the Attorney General to hold Mr. Pyatt in continued custody without another court order pursuant to 18 USC 4241(d)(2) and holding a hearing as mandated by statute with respect to 18 USC 4247(d). This obligation for the Attorney General to seek more time, and for the Court to act upon such a request is statutory and not discretionary (emphasis added).

Moreover, the Attorney General has taken advantage of the appeal that was pending in the Eleventh Circuit as a means to avoid their statutory obligation to seek more time pursuant to the statute. There is nothing in the statutory scheme of 18 USC 4241 that allows for an extension of time pursuant to 18 USC 4241(d)(2) absent a hearing in accordance with 18 USC 4247(d) with both parties present to either stipulate to more time or argue the contrary. A pending appeal is not an automatic grant of authority pursuant to 18 USC 4241(d)(2) to seek more time without seeking leave of Court to obtain such relief (emphasis added).

The Attorney General's statutory obligation to seek more time is clear as the Attorney General does not have discretion to consider otherwise upon request by the opposing party demanding that such an obligation be met. A pending interlocutory appeal was not intended to circumvent the Attorney General's obligation to keep within the constraints of the statute with respect to the custody of a Defendant for purposes of how much time the Attorney General may have to conduct the purpose of the statute.

The Supreme Court has stated that "[A]ll agree that an applicant seeking a 1651 mandamus writ must show that the [Court]. . .owes him a clear nondiscretionary duty." Cheney v. U.S. Dist. Court for Dist. of Columbia, 542 U.S. 367, 404, n.8, 124 S. Ct. 2576, 159 L. Ed. 2d 459 (2004) (internal citation and quotation marks omitted). See also United States ex rel. Girard Trust Co. v. Helvering, 301 U.S. 540, 544, 81 L. Ed. 1272 (1937) (Holding that "[W]here the right of the petitioner is not clear, and the duty of the officer, performance of which is to be commanded, is not plainly defined and preemptory, mandamus is not an appropriate remedy.") (internal citations omitted).

Mr. Pyatt has a clear right, as a matter of law, to have court order violations addressed and subsequent to this clear right, is a clear duty by the Court to act on these issues as a matter of law that pertain to time limit violations in the statutory scheme of 18 USC 4241. Subsequent to this duty by the Court to act, is the Clerk of the Court's duty to accept such filings for process, without taking actions to the contrary, so that the Court may address the matter.

To consider otherwise, is to prejudice Mr. Pyatt in the statutory scheme of 18 USC 4241 and any subsequent proceedings thereafter up until and including trial. The Supreme Court has stated, albeit in a slightly different context, that "[I]t is only where rights, in themselves appropriate subjects of judicial cognizance, are being, or about to be, affected prejudicially that this Court or members thereof can take action." Bartuli v. Board of Trustees, 434 U.S. 1337, 1339, 98 S. Ct. 21, 54 L. Ed. 2d 52 (1977).

Accordingly, further support for Mr. Pyatt's argument can be found in United States v. Baker where the Court of Appeals reversed a district court's order committing an Appellant pursuant to 18 USC 4246. In Baker, the Court of Appeals stated that the district court was without authority to hold the Appellant and held that "[T]his confinement was clearly in excess of four months, and there is nothing in the record to indicate that his period of confinement was properly extended. Therefore, although the court's initial commitment of appellant. . .was valid, we hold that there was no authority to confine appellant beyond the four months authorized by section 4241(d)." United States v. Baker, 807 F. 2d 1315, 1320 (6th Cir. 1986).

Similarly, the Eleventh Circuit Court of Appeals stated that "[T]he statute limits confinement to four months, whether more time would be reasonable or not. Any additional period of confinement depends upon the court's finding there is a probability that within the additional time he will attain capacity to permit trial." United States v. Donofrio, 896 F. 2d 1301, 1303 (11th Cir. 1990).

Notwithstanding the implications of custody with respect to 18 USC 4241(d) and a pending interlocutory appeal, the Attorney General is without authority to hold Mr. Pyatt in custody within the parameters of the original order of the court and thus, the Court has a clear duty to act on court order violations as a statutory obligation and is not afforded any discretion to consider otherwise upon request of the parties pursuant to the statutory scheme of 18 USC 4241 (emphasis added).

i. Clear Duty to Act While Motion is Pending

The Court for the Eleventh Circuit reasoned that "[U]nless and until this Court grants his pending motion to proceed pro se, neither this Court nor its Clerk has a clear duty to accept filings directly from him, as he is represented by counsel." See Order of the Court at 3, Appendix I. Mr. Pyatt has a right to waive counsel on interlocutory appeal and to litigate his own appeal and as such, has done so. See Pyatt, 23-11626, ECF 78. The mere fact that the Eleventh Circuit has not ruled on a pending motion should not preclude the Court from acting on matters of law that address unlawful detention. Counsel for the defense has stated on multiple occasions that the Office of the Public Defender does not wish to argue the appeal nor is it their intention to move forward with the appeal and take any further action other than filing a motion dismissing the appeal as moot (emphasis added). There is a clear conflict of interest in this case between Mr. Pyatt and counsel on record with respect to resolution of the appeal and moving forward towards trial. Mr. Pyatt has addressed counsel on record about the matter and has made a decision to terminate their services. See Appendix II.

To continue, because Mr. Pyatt is represented by counsel on appeal, and a motion to litigate his own appeal is still pending, the Clerk of the Court has "No Actioned" multiple filings pursuant to 11th Cir. R. 25-1 on interlocutory appeal. Mr. Pyatt has attempted to have the issue of unlawful detention addressed by the Eleventh Circuit Court of Appeals on collateral attack so that the appeals court, on interlocutory appeal, would remand the issue to the district court for a ruling on the merits to his claim. See Pyatt, 24-12071, ECF 1. This attempt has been unsuccessful thus far and as a result, Mr. Pyatt is still attempting to have the district court rule on matters substantive in nature. Mr. Pyatt continues to suffer irreparable harm as a result of the obstacles on direct appeal which include, but limited to, not being able to address the issues that bear on his custody that include his claims of a defect in the indictment.

A procedural rule such as 11th Cir. R. 25-1 preventing a proper filing should not preclude the Court's duty to act on a statutory obligation that, in the instant case, is resulting in pervasive prejudice towards a party. As such, even if there is a pending motion for a party to litigate his own appeal, there is still a clear duty for the Court to act, upon request of any party, to redress a court order violation in the statutory scheme of 18 USC 4241. The existence of the Courts' statutory obligation to act upon request for a remedy to a court order violation creates a substantive right for Mr. Pyatt to have redressed by the Court (emphasis added).

This substantive right is not precluded by any local circuit procedural rule barring review. Statutory language to this affect is codified by the Rules Enabling act which states that "[T]he Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of evidence for cases in the United States district courts. . .and court of appeals." 28 USC 2074(a).

The statute further providing that "[S]uch rules shall not abridge, enlarge, or modify any substantive right." 28 USC 2074(b). See also 28 USC 2071(a) (Stating that "[T]he Supreme Court and all courts established by Acts of Congress may from time to time prescribe rules for the conduct of their business. Such rules shall be consistent with Acts of Congress and rules of practice and procedure under section 2072 of this title.")

This argument is consistent with the Supreme Court's notion when they opined that "[T]he Federal Rule must not abridge. . .any substantive right. . .The cardinal purpose of Congress in authorizing the development of a uniform and consistent system of rules governing federal practice and procedure suggests that Rules which incidentally affect litigants' substantive rights do not violate this provision if reasonably necessary to maintain the integrity of that system of rules." Burlington Northern R. Co. v. Woods, 480 U.S. 1, 5, 107 S. Ct. 967, 94 L. Ed. 2d 1 (1987). See also McCollum Aviation, Inc. v. Cim Associates, Inc., 438 F. Supp. 245, 248, n.2 (S.D. Fla. 1977) (Clarifying that "[W]e have, I think, some moderately clear notion of what a procedural rule is. . .one designed to make the process of litigation a fair and efficient mechanism for the resolution of disputes. Thus, one way of doing things may be chosen over another because it is thought to be more likely to get at the truth, or better calculated to give parties a fair opportunity to present their sides of the story, or because. . .it is a means of promoting the efficiency of the process. . .as by keeping the size of the docket at a level consistent with giving those cases that are heard the attention they deserve.")

Application of this concept in example can be seen in Mr. Pyatt's proceeding below where Mr. Pyatt filed a motion to litigate his own appeal and the Court of Appeals issued an order to both the Office of the Federal Public Defender ("FPD") and the District Attorney to respond to Mr. Pyatt's motion. See Pyatt, 23-11626, ECF 64 (Stating that "[T]he FPD and the government are ORDERED to respond to Pyatt's motion, within 30 days of the issuance of this order"). Thereafter, the FPD and the district attorney filed their response and Mr. Pyatt filed a reply pursuant to Fed. R. App. P. 27(a)(4). The Clerk of the Court erroneously applied 11th Cir. R. 25-1 and took a " No Action" to Mr. Pyatt's reply filing citing that he is represented by counsel.

This action, of-course, flies in the face of common sense with respect to proper judicial administration and Mr. Pyatt had to call the Clerk of the Court to rigorously assert his right to file a reply. Although Mr. Pyatt was met with resistance when attempting to argue his right to file a reply, the Clerk eventually conceded in legal debate and admitted to error. See Pyatt, 23-11626, ECF 75 (Stating that the entry was "ENTERED IN ERROR" when the Clerk stated that "NO ACTION WILL BE TAKEN" to Mr. Pyatt's filing of the Reply to the Government's Response.)

The Clerk understood that the application of 11th Cir. R. 25-1 to prevent Mr. Pyatt from filing pursuant to Fed. R. App. P. 27(a)(4) was contrary to logic and thus independently took action, within the Clerk's discretion unbeknownst to the Court's cognizance, to suspend 11th Cir. R. 25-1 and allow Mr. Pyatt to file his reply (emphasis added).

Mr. Pyatt argues that the same reasoning should have been applied to Mr. Pyatt attempting to address his custody in violation of the original court order issued under 18 USC 4241(d)(1). The statute in controversy clearly indicates that the Power of Attorney, with respect to the defense, can file a motion to address his custody. See 18 USC 4247(h) (The statute providing that "[C]ounsel for the person. . .may, at any time. . .file with the court that ordered the commitment a motion for a hearing to determine whether the person should be discharged from such facility.")

Mr. Pyatt is clearly attempting to exercise a statutory right pursuant to 4247(h) by means of 11th Cir. R. 12.1.-1 in conjunction with Fed. R. Crm. P. 37(c) so that the district court is revested with jurisdiction to redress Mr. Pyatt's custody. See Pyatt, 23-11626, ECF 58. Application of 11th Cir. R. 25-1 to block Mr. Pyatt from asserting a substantive right codified in statute by preventing the filing of a motion to revest the district court with jurisdiction is erroneous, similar in nature to the error in application of 11th Cir. R. 25-1 to a filing submitted pursuant to Fed. R. App. P. 27(a)(4) (emphasis added).

The Clerk of the Court's decision when to invoke 11th Cir. R. 25-1 has clearly been shown not to be absolute in its application when the Clerk, within its discretion, has picked and chosen when to apply the Rule upon appropriate circumstance. As such, invocation and application of 11th Cir. R. 25-1 in response to Mr. Pyatt attempting to file a motion that addresses substantive matters material to custody disputes that include the aforementioned violations of statute, should not be absolute (emphasis added).

The fact that a local circuit procedural rule is preventing Mr. Pyatt from having a substantive right redressed by the Court gives rise to pervasive errors that hinder and "abridge" his rights, as-applied, in violation of the Rules Enabling Act. See 28 USC 2074 (a). This local circuit rule, 11th Cir. R. 25-1, was not meant to "abridge" any of Mr. Pyatt's substantive rights when applied in practice. id. Thus, similar to when the Clerk allowed Mr. Pyatt to file a reply, Mr. Pyatt should be allowed to file his motions to address statutory violations while a motion is pending for him to litigate his own appeal, despite being represented by counsel.

X. PRAYER FOR RELIEF

WHEREFORE, Mr. Pyatt request that this Court DECLARE that the Clerk of the Court for the Supreme Court, and the Clerk for any other court, is subject to the constraints of the Writ of Mandamus issued under authority of the Supreme Court pursuant to the All Writs Act 28 USC 1654.

Similarly, Mr. Pyatt also request that this Court DECLARE that a Court of Appeals has authority pursuant to 28 USC 1651 to issue a Writ of Mandamus to compel its own Clerk of the Court, whom is an "officer" within its respective jurisdiction.

Accordingly, Mr. Pyatt request that this Court DECLARE that a Clerk of the Court has a clear duty to accept filings by a party litigant represented by Counsel for the Court to review, in light of 11th Cir. R. 25-1, where the filing presented is submitted pursuant to the assertion of substantive and statutory right.

Finally, Mr. Pyatt request that this Court grant this Petition and issue out a Writ of Mandamus to compel and constrain the Clerk of the Court for the Eleventh Circuit Court of Appeals from taking a "No Action" to Mr. Pyatt's filings that address his custody.

Respectfully Submitted,

Joe Pyatt

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