

24-5734

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

ORIGINAL

IN THE  
SUPREME COURT OF THE UNITED STATES

FILED  
AUG 20 2024

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

In Re Osama Dib Duder — PETITIONER  
by <sup>(Your Name)</sup> Abdur-Rahim Dib Duder, Substitute

ON PETITION FOR A WRIT OF MANDAMUS

PETITION FOR WRIT OF MANDAMUS

Osama Dib Duder by Abdur-Rahim  
(Your Name) Dib Duder, Substitute

2498 Warwick Circle, NE  
(Address)

Atlanta, Georgia 30345  
(City, State, Zip Code)

678-702-6455  
(Phone Number)

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SUPREME COURT, U.S.

**SUPREME COURT OF THE UNITED STATES Case #****QUESTIONS**

Question 1. Did the Plaintiff-Appellee answer the prospective New Complaint, which happened to be the Old Complaint under a New Time pursuant to Rule 59(a)(2),e) ?

Question 2. Was the Transfer under 28 U.S.C. § 1404(a) from District 1 to District 2 proper?

Question 3. Did the Original Clerk of Court of District 1 act properly in Filing and Serving (Exhibit 12), “MOTION THAT JUDGE’S ORDER OF 10/20/23 BE SET ASIDE AND LET THE CASE OF CITIZENSS BANK, NA V. SUBSTITUTE ABDUR-RAHIM DIB DUDAR CONTINUE ITS COURSE” Dated 11/06/2023 (Docket # 9)?

Question 4. Did the Original Clerk of Court of District 1 act properly in Filing and Serving (Exhibit 13), “DEFENDANT’S MOTION FOR DEFAULT AGAINST PLAINTIFF”, Dated 01/22/2024. (Docket #10) and serving it on both the Plaintiff-Appellee and the Defendant-appellant?

Question 5. Given the fact Questions 3 and 4 are True, would that entitle the Defendant-Appellant to a Default Judgment as a matter of Law?

Question 6. Did the Defendant-Appellant and Plaintiff-Appellee transfer the case from District 1 to District 2 on January 22, 2024, properly?

Question 7. Did District 2 properly file the Notice of Appeal and the Docket on April 12, 2024?

**SUPREME COURT OF THE UNITED STATES OF AMERICA**

1 First Street, NE.

Washington, DC 20543

**CITIZENS BANK, NA**

Counsel for Appellee, Chris Parker

405 Madison Ave, Ste 2200

Toledo, Ohio 43604 , Appellee

And, Third-Party Appellees,

1. Kelly L. Stephens, Clerk

United States Court of Appeals

For the 6<sup>th</sup> Circuit,

100 Fifth Avenue, Room 540

U.S. Supreme Court #

Cincinnati, Ohio 45202-3988,

6<sup>th</sup> Circuit Court Case # 24-3314

2. Judge James G. Carr

United States District Court

Northern District of Ohio

Toledo, Ohio, 43604-5385

v.

**ABDUR-RAHIM DIB DUDAR,**

**SUBSTITUTE FOR OSAMA**

**DIB DUDAR,**

2498 Warwick Circle, NE

Atlanta, Georgia 30345,

APPELLANT

**SUPREME COURT OF THE UNITED STATES Case #****TABLE OF CONTENTS**

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**SUPREME COURT OF THE UNITED STATES Case #**

**LAWS**

**Rules of Civil Procedures: Rule 3, Rule 4, Rule 10(a), Rule 14, Rule 20 on Permissive Joinder of Parties, Rule 20 on Procedure on a Petition for an Extraordinary Writ, Rule 24, Rule 25, Rule 55, Rule 59.**

**14<sup>th</sup> Amendment Rights for Fair Trials and Civil Rights**

**USC Ch. 47, § 1341,1344 (Prohibitions)**

**28 U.S.C. § 1404(a) (Transfer)**

**1983 Law when Operating Under the Color causes Constitutional Rights Violations of victims**

**Mobley v. Ohio Supreme Court**

**Anecdotes :**

**The “Man Who Never Was” as in “North by Northwest”, an Alfred Hitchcock Movie**

**Two Stories from “Kaleela Wa Dumna” by Ibn Al-Muquafa'a:**

**1. The Monkey and the Two Cats:** The Monkey is a judge with a Balance to make equal. The Cats needed to divide the cheese they found equally. The Monkey splits the cheese into a large portion and a small one. The large portion gets down the balance, so he eats a large portion of it to make it smaller than the other portion. He kept doing that until he ate all the cheese, and the Cats were sad. (The Monkey Judge operates Under the Color to deprive a party of rights.)

**2. The Two Pigeons and the Turtle:** The Two Pigeons held a stick by their beak each on one end and the Turtle held itself biting the stick in the middle, so they would travel from an arid place to new place with water. While they were high up traveling to the new place, the people would marvel at this unusual travel. The Turtle wanted the people to shut up, mind their business. The Turtle opened its mouth. The Turtle had a great fall. (Applied to Citizens Bank NA, “Plaintiff amends its foreclosure demand to include \$20,600 second mortgage given to defendant within four days after the first mortgage of \$50,000 to pay for the two mortgages” when the defendant was found he could not pay the first mortgage living on a disability check from SS. Citizens Bank NA was after the balance left from the \$25,000 deposit and the interest that would be gotten. They accelerated repayment of the second mortgage to foreclose fast. Substitute invoked discovery and he was denied.)

**WRIT OF MANDAMUS****TO****UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT'S****CLERK KELLEY L. STEPHENS**

Appellant Osama Dib Duder (Osama), (deceased), by his Substitute Abdur-Rahim Dib Duder (Substitute Duder) moves for a Writ of Mandamus be issued against Kelly L. Stephens, Clerk of the United States Court of Appeals for the Sixth Circuit (6<sup>th</sup> Circuit) to file the Appeal of the Deceased Osama Dib Duder, Case #24-3314 in the 6<sup>th</sup> Circuit.

**WHATEVER** transpired/transacted legally or illegally in the United States District Court in Toledo, Ohio (District 1) and **WHOEVER** is responsible for these transactions, these are the **CONSTANTS**:

1. The Caption in this Writ without the Third-Parties, except for the Court submitted to has been the Caption used on behalf of Osama Dib Duder(Osama) by Substitute Abdur-Rahim Dib Duder (Substitute Duder) in all court transactions, State and Federal. (Exhibit 1)
2. The Notice of Appeal along with an Affidavit to Proceed in Forma Pauperis by Osama were mailed to District 1 on April 5, 2024. (Exhibits 1, 2)
3. The United States District Court in Cleveland, Ohio (District 2) properly filed the Notice of Appeal and submitted a copy of the Docket to the 6<sup>th</sup> Circuit on April 12, 2024. The Appeal was Docketed on April 17, 2024. District 2 proceeded under existing Forma Pauperis. (Exhibit 3)
4. The Clerk of District 1 transferred the Motion for Default to the Clerk of District 2 and the Case thus moved totally to District 2 in a change of venue. (Exhibits 4,5,6)
5. For some reason the Clerk of the 6<sup>th</sup> Circuit, Kelley L. Stephens, changed the Appellant from Osama to Abdur-Rahim Dib Duder and made a Demand "Pay \$605 filing fee or File Forma Pauperis on your own behalf or the Case will be dismissed." She stated the Defendant-Appellant is Abdur-Rahim Dib Duder. (Exhibits 7,8)
6. Osama's Appeal with the Brief submitted to the 6<sup>th</sup> Circuit has been held hostage to paying the \$605 filing fee by his Substitute as the Substitute was changed to Defendant-Appellant and the Brief is on his personal behalf when the Brief is on Osama's behalf. (Exhibit 9)
7. The Clerk of the 6<sup>th</sup> Circuit dismissed Osama's Direct Appeal on the Basis his Substitute is the real appellant. (Exhibit 8)

## ARGUMENT

### A. Why are we here ?

The Ohio Supreme Court invoked lack of jurisdiction on “Citizens Bank, NA v. Substitute Dudar.” Substitute Dudar appealed the case in the District Court, Toledo, Ohio (District 1) on September 11, 2023, on violation of Constitutional Rights pursuant to *Mobley v. Ohio Supreme Court*.

The Federal Judge dismissed the lawsuit for some reason on October 20, 2023, and closed it on the same day.

On October 28, 2023, Substitute Dudar mailed the motion “MOTION THAT JUDGE’S ORDER OF 10/20/23 BE SET ASIDE AND LET THE CASE OF CITIZENSS BANK, NA V. SUBSTITUTE ABDUR-RAHIM DIB DUDAR CONTINUE ITS COURSE” (Exhibit 12) filed on 11/06/2023, less than 28 days to satisfy Rule 59 (a(2), e). This motion was not answered by the Plaintiff through January 15, 2024.

Substitute Dudar filed “DEFENDANT’S MOTION FOR DEFAULT JUDGMENT AGAINST PLAINTIFF” Judgment against the Plaintiff under Rule 55 (filed 01/22/2024.)(Exhibit 13)

On January 23, 2024, the Plaintiff-Appellee filed “RESPONSE TO DOCKET NUMBER 9 AND 10 AND MOTION TO DEEM ABDUR-RAHIM DIB DUDAR A VEXATIOUS LITIGATOR”. Plaintiff said “no response to Docket Numbers 9 and 10 is required as the within matter was dismissed and closed before the documents were filed. ...Mr. Dudar continues to file without a legal basis to do so.” (Exhibit 14)

Appellant answered the Plaintiff with “SUBSTITUTE’S RESPONSE TO PLAINTIFF’S RESPONSE OF January 23, 2024” that the Plaintiff violates USC Ch. 47, Sections 1341,1344 and 14<sup>th</sup> Amendment Rights (Exhibit 15)

Now, the Clerk of District 1 transferred the motion to the Clerk of District Court, Cleveland, Ohio (District 2) on January 22, 2024. (Exhibit 4)

This was followed by filing all previous motions leading to motion for default (Exhibits 12,13). Then Substitute Dudar filed the “INVOICE AFFIDAVIT BY SUBSTITUTE” on March 14,2024 in District 2.(Exhibit 6)

Obviously, the Clerk of District 1 must have felt that the Appellant will face less prejudice in District 2 and equal treatment under the law will be protected. Therefore, District 2 is the new venue.

From the start of the alleged foreclosure on two illegally issued mortgages to defraud Osama, Abdur-Rahim Dib Dudar invoked Rule 25(a(1)) and substituted for Osama. The Plaintiff-Appellee did not substitute, and the Plaintiff-Appellee should be in a default judgment. Substitute Dudar moved for such judgment and was denied.

Also, Substitute Dumar began to intervene in all transactions in all Courts under Rule 24 to prevent mal-justice. The Substitute is not an attorney, so he requested the Courts to appoint an attorney for Osama and these requests were denied even when the Fifth Amendment Rights were invoked against Citizens Bank, NA. (Exhibit 10)

If Substitute Dumar does not use the law to prevent mal-justice, mal-justice wins. No resistance. "Turkey-shoot on cages." The deceased cannot talk!

B. Substitute Dumar mailed the Notice of Appeal (Exhibit 1). He also attached an affidavit to proceed as pauper (Exhibit 2.) District 2 filed the Notice of Appeal and a copy of the Docket on April 12, 2024. (Exhibit 3)

From further communications and transactions with the Court of Appeals for the 6<sup>th</sup> Circuit, the Clerk of Court invalidated the Notice of Appeal already filed by Switching Defendants to extract funds. Not only did the Clerk of Court invalidate the Notice of Appeal filed in the 6<sup>th</sup> Circuit, but the Clerk asked to pay Ransom Money called Filing Fee of \$605. Because she did not say the Notice of Appeal filed is to be replaced by another Notice of Appeal with new parties, she did not explain how the new party could move forward and what would happen to the previous parties. This became requesting Ransom when the hostage taker will kill the hostages after getting the money. It is paying ransom to a hostage demand except in this case the switching of parties becomes bait to defraud the victim of Crimes of Mortgage Fraud and his substitute because the victim is deceased. The Appellee would say that this new defendant never was the one to contest the fraud and the brief must be dismissed for wrong defendants. Baiting itself is an act of fraud. To understand the logic and law involved, the Substitute Dumar provides answers to Questions 1-6:

Question 1. Did the Plaintiff-Appellee answer the prospective New Complaint, which happened to be the Old Complaint under a New Time pursuant to Rule 59(a)(2),e) ?

Answer to Question 1. No.

Under Rule 59(a)(2), e) a request for a New Trial suspends the Old Judgment and Order until the judge goes through the evidence, witnesses, facts and eventually a New Judgment and Order will follow.

**"Rule 59. New Trial; Altering or Amending a Judgment**

***(a) In General.***

***(2) Further Action After a Nonjury Trial. After a nonjury trial, the court may, on motion for a new trial, open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new ones, and direct the entry of a new judgment.***

***(e) Motion to Alter or Amend a Judgment. A motion to alter or amend a judgment must be filed no later than 28 days after the entry of the judgment."***

Even if the New Judgment and Order are the same as the Old Judgment and Order, it is a New Judgment and Order under a New Time.

When the Old Judgment and Order is the existence of the original complaint, then not filing an Answer to Keep the Old Judgment and Order constitutes not only concession to the request for a New Trial and what the New Trial entails, it results in Abandonment of Rights the Opposing party had after the 14 days allowed to answer a motion from filing date. In this case, the existential motion is (Exhibit 12), the same as (Docket #9). This motion (Exhibit 12) was filed in the Docket on 11/06/2023 only 9 days after the Order to Dismiss the Complaint of September 11, 2023, and Closed its file on October 20, 2023 (the first Order issued by Judge James G. Carr.)

The Plaintiff-Appellee did not Answer the motion for the Pending New Complaint until January 23, 2024, with (Exhibit 14) of January 23, 2024, almost Three Months after the existential motion of (Exhibit 12) was filed in the Docket!

Therefore, all demands of the New Complaint are granted by default. The Plaintiff-Appellee lost its rights to contest. The Plaintiff-Appellee abandoned all its claims. The Plaintiff-Appellee is Estopped from making any claims against the New Complaint. In fact, the Plaintiff-Appellee Waived its rights when it filed (Exhibit 14): It knew and should have known by not answering (Exhibit 12) it would lose its rights to make any claims regarding the Lawsuit filed on September 11, 2023.

**2. Was the Transfer under 28 U.S.C. § 1404(a) from District 1 to District 2 proper? Yes.**

According to 28 U.S.C. § 1404(a) :

*“For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought or to any district or division to which all parties have consented.”*

There are two provisions in this section that must be satisfied to cause a transfer. (1) The District Court may transfer any civil action to any district or division and (2) to which all parties have consented. Both requirements (1) and (2) are satisfied.

The Clerk of Court of District 1 transferred the case to District 2. So, the first requirement is satisfied.

The consent of the Plaintiff-Appellee was given when the Plaintiff-Appellee did not answer the New Complaint. Plaintiff-Appellee did not answer (Exhibit 12) and never intended to answer (Exhibit 12) of November 6, 2023, and even the Plaintiff-Appellee did not want to answer (Exhibit 13) of January 22, 2024, saying that Plaintiff-Appellee does not want to answer (Exhibit 12) and (Exhibit 13) in its (Exhibit 14.) Consequently, the Plaintiff-Appellee confirmed abandonment by choice according to (Exhibit 14). The Plaintiff-Appellee waived its right to contest. The Plaintiff-Appellee abandoned its right to contest.

Therefore, the Plaintiff-Appellee consented to the transfer vacuously (Logic) i.e. the Plaintiff-Appellee consented by concession to (Exhibit 12). (Exhibit 12) became a New Complaint. This New Complaint was Filed and Served on both the Plaintiff and Defendant by the Original Clerk of Court of District 1. This New complaint was not Answered by the Plaintiff-Appellee and Plaintiff-Appellee said it does not want to answer it. Not answering a complaint results automatically in a default judgment.

Since the New Complaint is Uncontestable then (Exhibit 13) became Uncontestable Demand filed in Court and served by the Original Clerk of Court of District 1 on Both the Plaintiff and Defendant.

Consequently, the Transfer was proper. The case is no longer in District 1. The case is in District 2. Only District 2 has Jurisdiction. The transfer is according to 28 U.S.C. § 1404(a) and has nothing to do with 28 U.S.C. § 1404(b).

3. Did the Original Clerk of Court of District 1 act properly in filing and serving (Exhibit 12),  
"MOTION THAT JUDGE'S ORDER OF 10/20/23 BE SET ASIDE AND LET THE CASE OF  
CITIZENSS BANK, NA V. SUBSTITUTE ABDUR-RAHIM DIB DUDAR CONTINUE ITS COURSE"  
Dated 11/06/2023 (Docket # 9)? Yes.

Order of Judge James G. Carr was issued on October 20, 2023, and (Exhibit 12) was mailed to District 1 and to Plaintiff-Appellee on October 28, 2023, within the 28 days required by Rule 59 (e).

This (Exhibit 12) was mailed on October 28, 2023, by Defendant-Appellant with a copy certified as mailed to Plaintiff-Appellee.

This was followed by filing the motion (Exhibit 12) by the Original Clerk of Court of District 1 and serving it on both the Plaintiff-Appellee and Defendant-Appellant on November 6, 2023.

According to Rule 59(a)(2),e, Judge's Order of October 20, 2024, is no longer a final order. It must undergo changes for a New Order. Therefore, the Case is still pending (See Duder v. State Farm, 11<sup>th</sup> Circuit on Jurisdiction).

4. Did the Original Clerk of Court of District 1 act properly in filing (Exhibit 13),  
"DEFENDANT'S MOTION FOR DEFAULT AGAINST PLAINTIFF", Dated 01/22/2024. (Docket #10) and serving it on both the Plaintiff-Appellee and the Defendant-appellant? Yes.

This (Exhibit 13) was mailed on January 15, 2024, by Defendant-Appellant to District 1 and a copy of this motion was certified as mailed to Plaintiff-Appellee. This was followed by filing the motion by the Original Clerk of Court and serving it on both the Plaintiff-Appellee and the Defendant-Appellant on January 22, 2024. An Affidavit was attached as part of the motion.

5. Given the fact Questions 3 and 4 are True, would that entitle the Defendant-Appellant to a Default Judgment as a matter of Law? Yes.

The Defendant-Appellant filed an 'INVOICE AFFIDAVIT BY SUBSTITUTE' (Exhibit 6) March 14, 2024, for payment by the Plaintiff-Appellee.

This (Exhibit 6) was mailed to District 2 on 03/14/2024. And a copy of (Exhibit 6) was certified as mailed to Plaintiff-Appellee on March 14, 2024.

6. Did the Defendant-Appellant and Plaintiff-Appellee transfer the case from District 1 to District 2 on January 22, 2024, properly? Yes.

It is true the Original Clerk of Court of District 1 transferred the case to District 2. But this transfer was fully endorsed by the Defendant-Appellant and consented to it vacuously by the Plaintiff-Appellee, the reason why the Defendant-Appellant resubmitted all transactions in the case to District 2. The Plaintiff-Appellee, Citizens Bank, NA abandoned all its rights in the New Case.

See (Question 2) above.

7. Did District 2 properly file the Notice of Appeal and the Docket on April 12, 2024? Yes.

The Case was Transferred to District 2 properly on January 22, 2024. District 1 lost its Jurisdiction on January 22, 2024. District 2 has the Jurisdiction on the case as of January 22, 2024.

## CONCLUSION

These Exhibits 17, 18, 19 had been taken by Judge James G. Carr out of Jurisdiction after January 22, 2024.

Exhibit 17( March 14, 2024) and Exhibit 18 (March 26, 2024) were taken out of jurisdiction after the case was transferred on January 22, 2024, from District 1 to District 2.

Exhibit 19 violates two jurisdictions District 2's and the United States Court of Appeals for the 6<sup>th</sup> Circuit's. Most probably Judge James G. Carr posed as Circuit Court Judge when he is a District Court Judge because the Clerk Kelly L. Stephens dismissed the appeal using Rule 45 (a) normally used for actions by Circuit 6<sup>th</sup>. So, all these transactions by Judge James G. Carr are null and void.

Kelly L. Stephens in collusion with Judge James G. Carr violated Rule 3(a(1, 2)): (a) Filing the Notice of Appeal.

***(1) An appeal permitted by law as of right from a district court to a court of appeals may be taken only by filing a notice of appeal with the district clerk within the time allowed by Rule 4. At the time of filing, the appellant must furnish the clerk with enough copies of the notice to enable the clerk to comply with Rule 3(d).***

***(2) An appellant's failure to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is ground only for the court of appeals to act as it considers appropriate, including dismissing the appeal.***

Therefore, Judge James G. Carr and Clerk Kelly L. Stephens attempted to commit fraud against Osama Dib Dumar. The deceased do not talk. But the law does.

**THEREFORE**, A Writ of Mandamus should be issued against Kelly L. Stephens, Clerk of the United States Court of Appeals for the 6<sup>th</sup> Circuit to file the Appeal of the Deceased Osama Dib Dumar, Case #24-3314 in the 6<sup>th</sup> Circuit.

**DEFENDANT-APPELLANT, OSAMA DIB DUDAR BY HIS SUBSTITUTE DUDAR RESPECTFULLY URGES THE SUPREME COURT OF THE UNITED STATES TO GRANT HIS WRIT FOR MANDAMUS** for the following reason:

Although a petition for a Writ of Certiorari is rarely granted, in this case, there are compelling reasons to grant this one under Rule 10(a). The Clerk of the Court of Appeals for the 6<sup>th</sup> Circuit switched Defendant-Appellants to get a payment of fee to invalidate a legitimate appeal knowing she must file the appeal by Rule 3(a(1,2)). It is not a misapplication of a law or rule. It is a deliberate act to commit fraud.

As an alternative to the Mandamus, grant the Motion for Default (Exhibit 13) along with “INVOICE AFFIDAVIT BY SUBSTITUTE” (Exhibit 6) and let the Department of Justice investigate both individuals for motives and manipulations of evidence.

Abdur-Rahim Dib Dumar, Substitute

Date September 25, 2024

For Osama Dib Dumar, Deceased