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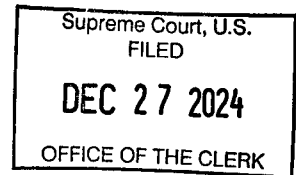
ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

IN RE THOMAS SAWYER §

§

PETITIONER'S PETITION FOR A WRIT OF HABEAS CORPUS



FIFTH CIRCUIT COURT OF APPEALS

PETITION FOR A WRIT OF HABEAS CORPUS
(TR. NO. 7-15-042-0; APPL. NO. 22-10447)

THOMAS SAWYER #579557
3695 FM 3514 LE BLANC VILLAGE
BEAUMONT, TX. 77705

QUESTIONS PRESENTED

QUESTION NUMBER ONE: CAN THE 5TH CIRCUIT COME UP WITH A NEW AND CREATIVE WAY TO EXTRACT AN UNAUTHORIZED AND UNCONSTITUTIONAL SECOND APPELLATE FILING FEE BY KNOWINGLY AND INTENTIONALLY ERRONEOUSLY DENY^{ING} PETITIONER'S APPEAL BY USING CASE LAW THAT IT KNEW IS INCORRECT SO THAT PETITIONER WOULD BE FORCED TO PAY AN ADDITIONAL MANDAMUS FEE — WHICH IS TANTAMOUNT TO A SECOND APPELLATE FILING FEE — TO POSSIBLY RECEIVE THE VERY RELIEF THE 5TH CIRCUIT KNEW HE WAS ENTITLED TO IN THE FIRST PLACE.

QUESTION NUMBER TWO: CAN THE 5TH CIRCUIT KNOWINGLY AND INTENTIONALLY CREATE A SECOND FILING FEE KNOWING PETITIONER CAN NOT PAY SAME FOR THE SOLE PURPOSE OF NOT HAVING TO ADDRESS THE DISTRICT COURT'S USE OF THE RACIAL DESIGNATOR OR MONIKER OF "BL" OR "BLACK" LITIGANT IN THE CAPTION OF PETITIONER'S CASES TO DENY HIM RELIEF.

QUESTION NUMBER THREE: CAN THE 5TH CIRCUIT KNOWINGLY AND INTENTIONALLY ERRONEOUSLY DENY PETITIONER RELIEF ON APPEAL AND INFORM HIM THAT THE 5TH CIRCUIT WILL NOT ACKNOWLEDGE ANY FURTHER PLEADINGS FROM HIM JUST SO HE WOULD BE FORCED TO FILE A SECOND APPEAL OR A PETITION FOR A WRIT OF MANDAMUS WHICH IS TANTAMOUNT TO A SECOND APPEAL FOR THE SOLE PURPOSE TO EXTRACT ANOTHER APPELLATE FILING FEE OF WHICH IT KNOWS PETITIONER DOES NOT HAVE DUE TO FACT THE STATE OF TEXAS IS ONE OF ONLY TWO STATES THAT DO NOT PAY ITS PRISONERS A WAGE.

LIST OF PARTIES

THOMAS SAWYER, PETITIONER

CARYN DE; TAMMY MESSIMER; DANIEL A. LITVIN; RUBEN SAPIN; MARGA ORAL;
DENNER BRAUBERRY; MANY OTHERS ERRONEOUSLY DISMISSED; ET AL; RESIDENTS
RELATED CASES

7-15-CV-092-0; USCA 16-10238
7-15-CV-092-0; USCA 21-10241
7-15-CV-092-0; USCA 19-10642

7-12-CV-185-BL; USCA 14-11165 (14-11164; 14-11174)
7-13-CV-038-BL;
7-13-CV-080-BL;
7-13-CV-243-BL;

05-23-90047

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JURISDICTION

THE 5TH CIRCUIT COURT OF APPEALS DECIDED SANVER V. AFE, ET AL., ON MAY 30, 2024. ON AUGUST 20, 2024, PETITIONER FILED HIS WRITS IN THE U.S. SUPREME COURT. ON SEPTEMBER 12, 2024, THE CLERK RETURNED PLEADING FOR CORRECTIONS WITHIN 60 DAYS. ON OCTOBER 25, 2024, THE CLERK EXTENDED THE DEADLINE TO DECEMBER 24, 2024.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

FIRST AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES

FIFTH AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES

FOURTEENTH AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES

ALTHOUGH THE WRIT IS USUALLY DISCRETIONARY IT IS MANDATORY IN THE INSTANT CASE BECAUSE IT IS PROPER WHERE THE 5TH CIRCUIT HAS FAILED OR REFUSED TO EXERCISE ITS JURISDICTION TO ADDRESS PETITIONER'S GROUNDS OF ERROR 1, 2, 3, 4, 5, 6, 7 AND 9, HIS "REPLY BRIEF" HIS "PETITION FOR PANEL REHEARING AND REHEARING EN BANCO," HIS "MOTION TO REOPEN APPEAL..." HIS "SECOND MOTION TO REOPEN APPEAL..." HIS "THIRD MOTION TO REOPEN APPEAL..." AND AS OF DATE HIS "PETITION FOR A WRIT OF HABEAS CORPUS" ETC., AND IN DOING SO HAS REFUSED TO EXERCISE ITS APPELLATE JURISDICTION AND THAT APPELLATE REVIEW WILL BE DEFEATED IF A WRIT DOES NOT ISSUE. LA BUY V. HOWES, 352 US 249 (1957); 28 USC § 1651.

ALTHOUGH THE COURT HAS DISCRETIONARY JURISDICTION, THE COURT ALSO HAS DIRECT MANDATORY APPELLATE JURISDICTION PURSUANT TO 28 USC §§ 1253 AND 1651; RULE 20.

STATEMENT OF THE CASE

ON 5-25-17, THE 5TH CIRCUIT COURT OF APPEALS REVERSED AND REMANDED THE DISTRICT COURT'S DECISION IN CIVIL ACTION NO. 7-15-CV-092; APPEAL NO. 16-10238, HOLDING THAT PETITIONER'S ALLEGATIONS REGARDING THE DISLOCATION OF HIS SHOULDER WARRANT A DETERMINATION THAT HE WAS UNDER IMMINENT DANGER OF SERIOUS PHYSICAL INJURY AND THAT HE ADEQUATELY STATES A CLAIM OF EXCESSIVE FORCE AMOUNTING TO UNCONSTITUTIONALLY CRUEL AND UNUSUAL PUNISHMENT.

ON 3-30-22, AFTER SITTING ON THIS CASE FOR FIVE (5) YEARS, THE

DISTRICT COURT DISMISSED THE INSTANT CASE. ON 4-25-22, PETITIONER TIMELY FILED "NOTICE OF APPEALS." THE FIFTH CIRCUIT DENIED APPEAL ERRONEOUSLY HOLDING THAT PETITIONER'S NOTICE OF APPEAL DOES NOT MENTION GROUNDS OF ERROR ONE, TWO, THREE, FOUR, FIVE, SIX, SEVEN AND NINE OR EVIDENCE AN INTENT TO APPEAL THEM AND THEREFORE FAILED AND REFUSED TO ADDRESS THEM ON THE MERITS. THE RULING CONFLICTS WITH EVERY SINGLE OTHER CIRCUIT COURT OF APPEALS AND THE U.S. SUPREME COURT.

AS TO GROUND OF ERROR NUMBER TEN, IT ERRONEOUSLY CONCLUDED THAT SINCE HE PRESENTED THE SAME OR SUBSTANTIALLY SIMILAR ARGUMENTS PRIOR, AND HAD PAID FEE, IT NEED NOT BE ADDRESSED.

CONCERNING GROUND OF ERROR EIGHT, THE COURT ERRONEOUSLY GRANTED SUMMARY JUDGMENT AS TO ALL RESONMENTS. THE FIFTH CIRCUIT COURT OF APPEALS CORRECTLY QUOTED THE LAW, YET KNOWINGLY AND INTENTIONALLY FAILED AND REFUSED TO CORRECTLY APPLY THE SUMMARY JUDGMENT LAW FOR THE SOLE PURPOSE THAT SINCE THE DISTRICT COURT HAD ALREADY USED THE RACIAL DESIGNATOR OR MARKER OF "BL" OR "BLACK" LITIGANT IN THE CAPTION OF ALL PETITIONER'S PREVIOUS CASE TO DENOTE THAT PETITIONER WAS A "BLACK" AMERICAN CITIZEN SO THAT THE DISTRICT COURT WOULD BE REMINDED TO LATER DISMISS THE INSTANT CASE AND ONLY CEASE TO STOP USING THE "BL" ONCE PETITIONER QUESTIONED SAYS COURT ABOUT IT, THE FIFTH CIRCUIT FELT COMPELLED TO DENY PETITIONER APPELLATE RELIEF NOR REHEAR SO IT WOULD NOT HAVE TO SPECIFICALLY ADDRESS THE UNCONSTITUTIONAL BIAS, PREJUDICE AND RACISM EXHIBITED AND EXERCISED BY THE FEDERAL DISTRICT COURT AGAINST ANY AND/OR ALL "BLACK" LITIGANTS.

REASONS FOR GRANTING THE PETITION

NO. _____

IN THE

SUPREME COURT OF THE UNITED STATES

IN RE THOMAS SAWYER §

§

PETITIONER'S PETITION FOR A WRIT OF HABEAS CORPUS

TO THE HONORABLE UNITED STATES SUPREME COURT:

COMES NOW THOMAS SAWYER PETITIONER IN THE ABOVE STYLED CAUSE AND FILES THIS HIS PETITION FOR A WRIT OF HABEAS CORPUS AND IN SUPPORT THEREOF WOULD SHOW THE COURT AS FOLLOWS:

THIS COURT HAS JURISDICTION PURSUANT TO 28 USC § 1651(a) AND RULE 20.3.

I. RELIEF SOUGHT

YOUR PETITIONER IS A LAYMAN AT LAW. THE RELIEF SOUGHT BY PETITIONER IS THAT THE COURT GRANT HIS WRIT OF CERTIORARI, HIS EXTRAORDINARY WRIT AND HIS WRIT OF HABEAS CORPUS, ORDERING THE 5TH CIRCUIT COURT OF APPEALS REVERSE AND REMAND APPEAL NO. 22-10447 FOR TRIAL ON THE MERITS CONSISTANT WITH THE COURT'S ORDER, MORE SPECIFICALLY, THAT THE 5TH CIRCUIT HOLD A REHEARING EN BANC DUE TO SERIOUSNESS OF THE CLAIMS AS ORDERED BY THE COURT; OR, IF THE 5TH CIRCUIT INSIST HOLD A PANEL REHEAR AND THEN AN AUTOMATIC REHEARING EN BANC THEREAFTER; THAT COURT REOPEN APPEAL, REOPEN OR RECALL AND EXTEND THE MANDATE, REHEAR AND RECONSIDER ANY AND ALL OF PETITIONER'S MOTIONS, PLEADINGS AND EXCEPTIONS, INCLUDING BUT NOT LIMITED TO HIS: (1) BRIEF (8-23-23); (2) BRIEF (11-22-23); (3) [PETITIONER'S] MOTION FOR EXTENSION OF TIME TO FILE REPLY BRIEF (3-15-24); (4) [PETITIONER'S] SECOND MOTION FOR EXTENSION OF TIME TO FILE REPLY BRIEF (4-22-24); (5) REPLY BRIEF (6-13-24); (6) [PETITIONER'S] PETITION FOR PANEL REHEAR-

APPEAL

ING (6-13-24); (7) "[PETITIONER'S] MOTION TO REOPEN [AND] EXTEND THE TIME TO FILE REPLY BRIEF AND ANY AND ALL [PETITIONER'S] MOTIONS; MOTION TO RECONSIDER, VACATE, OR MODIFY COURT'S ACTION" (6-20-24); (8) "[PETITIONER'S] RESPONSE TO DEPUTY CLERK..." (7-4-24); (9) "[PETITIONER'S] SECOND MOTION TO REOPEN APPEAL..." (8-24-24); (10) "[PETITIONER'S] THIRD MOTION TO REOPEN APPEAL..." (9-25-24); ETC., AND ANY AND ALL OTHER REMARKS FILED BY PETITIONER SINCE 11-1-22; FURTHER ORDERING THE 5TH CIRCUIT TO GRANT THEM ALL FOR JUST CAUSE; ANY AND ALL FURTHER RELIEF THE HONORABLE ~~THE~~ U.S. SUPREME COURT DEEMS FAIR AND JUST.

II. ISSUES PRESENTED

THE ISSUE PETITIONER PRESENTS ARE, ON MAY 30, 2024, THE 5TH CIRCUIT ERRONEOUSLY AFFIRMED APPEAL NO. 22-10447. THE 5TH CIRCUIT INCORRECTLY USED IN RE HINSLEY, 201 F.3d 638, 641 (5TH CIR. 2000) TO AFFIRM THE DISTRICT COURT'S JUDGMENT HOLDING THAT "[PETITIONER'S] NOTICE OF APPEAL DOES NOT MENTION THESE RULINGS OR EVIDENCE AN INTENT TO APPEAL THEM," IN REFERENCE TO GROUNDS OF ERROR NUMBERS 1, 2, 3, 4, 5, 6, 7 AND 9. HOWEVER, THE SAME HONORABLE FIFTH CIRCUIT COURT OF APPEALS OVERRULED 24 YEAR OLD HINSLEY HOLDING THAT "NOTICE OF APPEALS ENCOMPASSES ALL ORDERS THAT, FOR PURPOSES OF APPEAL, MERGE INTO THE DESIGNATED JUDGMENT OR APPEALABLE ORDER." SEE NORSWORTHY V. HOUS. IND. SCH. DIST., 70 F.4TH 332 (5TH CIR. 2023).

SINCE YOUR PETITIONER FILED NOTICE OF APPEAL PURSUANT TO THE DISTRICT COURT'S FINAL JUDGMENT, THE SAID EIGHT GROUNDS OF ERROR WERE PROPERLY BRIEFED AND APPEALED AND SHOULD BE HEARD ON THE MERITS ON APPEAL. -Id.

III. THE FACTS NECESSARY TO UNDERSTAND THE ISSUE PRESENTED BY THE PETITION

YOUR PETITIONER MADE THE 5TH CIRCUIT AWARE OF THE ABOVE FACTS IN HIS 6-13-24 "[PETITIONER'S] PETITION FOR PANEL REHEARING AND REHEARING EN BANC" AND HIS 6-20-24 "[PETITIONER'S] MOTION TO REOPEN AND EXTEND THE TIME TO FILE REPLY BRIEF...". ON 7-2-24, PETITIONER RECEIVED THE CLERK'S 6-25-24 LETTER GIVING HIM TEN (10) DAYS FROM 6-25-24 TO MAKE CORRECTIONS — (VERY SIMILARLY TO THE CLERK OF THE U.S. SUPREME COURT'S 9-12-24 LETTER GIVING HIM 60 DAYS TO MAKE CORRECTIONS) (SEE CLERK'S LETTER, 6-25-24). SHE INSTRUCTED HIM THAT: "PETITION FOR REHEARING EN BANC MUST NOT BE INCORPORATED IN THE PETITION FOR PANEL REHEARING, SEE 5TH CIR. R. 35.2. THEREFORE, YOU MUST TAKE ONE OF THE FOLLOWING ACTIONS: (1) SEND LETTER ADVISING TO DISREGARD YOUR REQUEST FOR PETITION FOR REHEARING EN BANC, OR (2) IF IT IS YOUR INTENTION TO FILE A PETITION FOR REHEAR- IN EN BANC, YOU WILL NEED TO COMPLY WITH 5TH CIR. R. 35.2."

YOUR PETITIONER, HAVING ONLY TWO (2) DAYS TO REPLY, TIMELY COMPLIED BY PLACING HIS "[PETITIONER'S] RESPONSE TO DEPUTY CLERK..." IN THE PRISON MAILBOX ON 7-4-24 IN ACCORDANCE WITH HANSON V. LACK, 487 US 266 (1988); RULE 25(a)(2)(C), REQUESTING SPECIFICALLY THAT CLERK "... MAKE THREE (3) COPIES OF SAID MOTION. (1) FROM THE FIRST MARK OUT "AND REHEARING IN BANC" SO ALL THAT'S LEFT IS "PETITION FOR PANEL REHEARING." HE FURTHER MADE OTHER REQUEST CLEARLY EXPLAINING THAT HE IS A LAYMAN AT LAW AND DID NOT FULLY UNDERSTAND THE DEPUTY CLERK'S REQUEST, DID NOT UNDERSTAND THE LAW, THAT HE WAS FEARFUL OF MISSING OUT ON A LEVEL OF REVIEW OR OBTAINING THE RELIEF NEEDED, AND FURTHER REQUESTED SHE DO WHATEVER WAS NECESSARY TO DO JUSTICE, ETC. (SEE SAID "RESPONSE TO DEPUTY CLERK...", P. 1-6).

(3)

F.R.A.P. RULE 25(c)(4) REQUIRES THAT "THE CLERK MUST NOT REFUSE TO ACCEPT FOR FILING ANY PAPER PRESENTED FOR THAT PURPOSE SOLELY BECAUSE IT IS NOT PRESENTED ~~FOR THAT~~ IN PROPER FORM AS REQUIRED BY THESE RULES OR BY ANY LOCAL RULE OR PRACTICE." SEE JOHNSON V. OKLAHOMA, 2020 U.S. DIST. LEXIS 164452 (W.D. OKLA 2020). BAKER V. CARTER, 2013 U.S. DIST. LEXIS 39918 (E.D. TEX. 2013). THIS COUPLED WITH THE FACT PETITIONER IS A LAYMAN AT LAW AND HIS PLEADINGS SHOULD NOT HAVE BEEN HELD TO THE STRINGENT STANDARDS OF A LAWYER (HAINES V. KERNER, 92 S.Ct 594 (1972)); BUT RATHER SHOULD HAVE BEEN LIBERALLY CONSTRUED IN LIGHT MOST FAVORABLE SCHEVER V. RHODES, 94 S.Ct 1683 (1974)), AS HE HAS HAD NO FORMAL TRAINING IN LEGAL MATTERS, HIS "PETITION FOR PANEL REHEARING AND REHEARING EN BANC" SHOULD HAVE BEEN FILED WITH THE COURT AS WELL AS HIS "PETITION FOR PANEL REHEARING" AT THE VERY LEAST (ALONG WITH THE OTHER REQUESTED PLEADINGS) (SEE RESPONSE TO DEPUTY CLERK, 7-4-24, P. 1-6)).

IV. THE REASONS WHY THE WRIT SHOULD ISSUE

INSTEAD OF THE CLERK OF THE 5TH CIRCUIT MAKING CLEAR PETITIONER'S OPTIONS OR CLARIFYING WHAT HE NEEDED TO DO BASED ON WHAT HE STATED HE WANTED TO ACCOMPLISH, SHE SENT HIM AN ORDER IN U.S. V. YARBROUGH, APPEAL NO. 23-1103, FILED 6-25-24, WHICH HAS NOTHING TO DO WITH PETITIONER'S CASE.

AFTER INFORMING THE CLERK IN HIS "SECOND MOTION TO REOPEN..." THAT, ALTHOUGH PRISON OFFICIALS INFORMED HIM APPEAL NO. 22-10447 HAD BEEN DISMISSED, YET HE NEVER RECEIVED NOTIFICATION, INSTEAD OF CORRECTING HER MISTAKE BY SERVING SAID NOTIFICATION OR ORDER, THE CLERK INFORMED PETITIONER THAT HE WOULD HAVE TO PAY FOR SAME (SEE APPEAL NO. 22-10447, CLERK'S LETTER 9-4-24).

INSTEAD OF THE 5TH CIRCUIT CLERK SERVING PETITIONER A SECOND LETTER OF CLARIFICATION, AND POSSIBLY WITH A NEW DEADLINE (SUCH AS THE HON. U.S. SUPREME COURT CLERK IN HER 10-25-24 LETTER),

SHE FINALLY INFORMED PETITIONER THAT HIS "THIRD MOTION TO REOPEN..." WAS RECEIVED, BUT "NO ACTION IS TAKEN ON THIS DOCUMENT AND WE WILL NOT FILE OR ACKNOWLEDGE ANY ADDITIONAL DOCUMENTS IN THIS CASE" (SEE APPL. NO. 22-10447, CLERK'S LETTER 10-2-24). THE CLERK HAS MADE IT VERY PLAIN THAT PETITIONER MAY NOT FILE ANYTHING FURTHER IN THAT CAUSE.

YOUR PETITIONER CLEARLY PRESENTED ALL THE ABOVE FACTS AND HIS RIGHT TO RELIEF IN HIS 8-24-24 "[PETITIONER'S] THIRD MOTION TO REOPEN APPEAL..." OF WHICH HE HERE AND NOW INCORPORATES INTO THE INSTANT PLEADING, IN ITS ENTIRETY, FOR THE SAKE OF BREVITY AND JUST ADJUDICATION.

ON 9-20-24, PETITIONER FOR THE FIRST TIME RECEIVED THE CLERK'S 7-16-24 ORDER STIPULATING HE HAD NOT COMPLIED WITH TEN (10) DAY ORDER AND THAT HIS PETITION FOR REHEARING/REHEARING EN BANC WAS STRICKEN. ON 9-25-24, PETITIONER FILED HIS "THIRD MOTION TO REOPEN APPEAL..." AGAIN, DEMONSTRATING HIS MISUNDERSTANDING OF THE CLERK'S REQUEST AND FURTHER REQUESTED THAT ONLY HIS "PETITION FOR PANEL REHEARING" BE HEARD. ON 10-7-24, HE RECEIVED THE CLERK'S 10-2-24 LETTER VERIFYING SHE RECEIVED HIS "THIRD MOTION TO REOPEN..." AND THAT NO ACTION WOULD BE TAKEN AND THAT THE CLERK'S OFFICE "WILL NOT FILE OR ACKNOWLEDGE ANY ADDITIONAL DOCUMENTS IN THIS CASE" (SEE APPL. NO. 22-10447, CLERK'S LETTER 10-2-24).²

THE CLERK DOES NOT EXACTLY SAY HOW HE FAILED TO COMPLY WITH THE CLERK'S LETTER, IF ITS HER POSITION THAT HE DID NOT COMPLY WITHIN TEN (10) DAYS, SHE IS INCORRECT. HE DID NOT RECEIVE HER 6-25-24 LETTER UNTIL THE 8TH DAY BEING 7-2-24, LEAVING HIM TWO (2) DAYS OR UNTIL 7-4-24 TO HAVE RESPONSE IN CLERK'S OFFICE. HE COMPLIED BY PLACING SAME IN PRISON MAIL BOX ON 7-4-24, ON THE TENTH DAY. MAILROOM OFFICIALS VERIFIED THESE FACTS (SEE "THIRD MOTION TO REOPEN"), THE FACT THAT HIS "RESPONSE TO THE DEPUTY CLERK..." CLEARLY SHOWS THAT HE TIMELY FILED SAID PLEADING 7-4-24 ALONG WITH HIS 28 USC § 1746 DECLARATION AND BY HIS PRESENTATION THAT IT WAS SENT BY "FIRST CLASS MAIL, POSTAGE PREPAID"

² FOOTNOTE, P. 18. ³ FOOTNOTE, P. 18

ON 7-4-24, HIS COMPLIANCE WITH THE CLERK'S LETTER IS COMPLETE.
U.S. V. NYAMAHARD, 514 F.2d 479 (5TH CIR. 2013). POWER V CLAY,
2012 U.S. DIST. LEXIS 24495 (S.D. TEX. 2012).⁵

F.R.A.P. RULE 25(c)(3) PROVIDES THAT ALL MOTIONS ARE TO BE
FILED WITH THE COURT JUDGE WHO GIVES TO THE CLERK FOR FILING.
F.R.A.P. RULE 25(c)(4) STIPULATES THAT "THE CLERK MUST NOT REFUSE
TO ACCEPT FOR FILING ANY PAPER PRESENTED FOR THAT PURPOSE
SOLELY BECAUSE IT IS NOT PRESENTED IN PROPER FORM AS REQUIRED
BY THESE RULES OR BY ANY LOCAL RULE OR PRACTICE." BAKER V.
CHARTER, 2013 U.S. DIST. LEXIS 39918 (E.D. TEX. 2013). THIS BEING THE
CASE, THE CLERK WAS OBLIGATED TO NOT ONLY FILE HIS "MOTION FOR
PANEL REHEARING AND REHEARING EN BANC," IN THE FIRST INSTANCE,
IN THE SECOND INSTANCE, SHE WAS REQUIRED TO FILE HIS: (1) "PETITION
FOR PANEL REHEARING," (2) "REHEARING OR REHEARING EN BANC," AND
(3) "PETITION FOR REHEARING EN BANC" AS SPECIFIED AND REQUESTED
IN HIS 7-4-24 "RESPONSE TO DEPUTY CLERK..." AS REQUIRED BY
LAW, BAKER, SUPRA.

MANDAMUS IS AN EXTRAORDINARY REMEDY THAT SHOULD BE GRANTED
ONLY IN THE clearest AND MOST COMPELLING CASES. IN RE WILLEY,
831 F.2d 545, 549 (5TH CIR. 1987), A PARTY SEEKING MANDAMUS
RELIEF MUST SHOW BOTH THAT HE HAS NO OTHER ADEQUATE MEANS TO
OBTAIN THE REQUESTED RELIEF AND THAT HE HAS A "CLEAR AND INDIS-
PUTABLE" RIGHT TO THE WRIT. IN RE JONES, 2023 U.S. APP. 22543 (5TH
CIR. 2023). YOUR PETITIONER HAS PRESENTED A CLEAR AND MOST
COMPELLING CASE FOR HIS NEED FOR MANDAMUS RELIEF IN THAT THE
5TH CIRCUIT HAS ERRONEOUSLY AND INCORRECTLY USED THE CASE OF
HINSLEY, SUPRA, IN APPEAL NO. 22-10447 THAT IS CONTRARY TO, NOT ONLY
THE 5TH CIRCUIT'S VERY OWN POSITION AS STATED IN NORSWORTHY,
SUPRA, BUT IS ALSO IN OPPOSITION TO EVERY SINGLE CIRCUIT COURT
OF APPEALS WHICH ALL HOLD THAT: "NOTICE OF APPEALS ENCOMPASSES
ALL ORDERS THAT, FOR PURPOSES OF APPEAL, MERGE INTO THE DESIGNATED
JUDGMENT OR APPEALABLE ORDERS" AS FOLLOWS:

⁵ FOOTNOTE, P. 18

GONPO V. SONAM'S STONEWALL & ART, LLC, 41 F.4TH 1942 (1ST CIR. 2022);
BROCK V. CITY OF N.Y., 2024 U.S. APP. LEXIS 17904 (2ND CIR. 2024);
R & C OILFIELD SERV. LLC V. AM. WIND. TR. LLC, 45 F.4TH 653 (3RD CIR. 2022);
68TH ST. SITE WORK GRP V. ALBANY TRACTOR CO., 105 F.4TH 222 (4TH CIR. 2024);
WLODARZ V. CENTURION OF TENN. LLC, 2024 U.S. APP. LEXIS 15166 (6TH CIR. 2024);
OLD REP. GEN. INS V. VLM FIRE INS CO, 2023 U.S. APP. LEXIS 32549 (7TH CIR. 2023);
OSHER V. CITY OF ST. LOUIS, 903 F.3d 648 (8TH CIR. 2018);
CALE V. CITY OF CASSIA, 2021 U.S. APP. LEXIS 24433 (9TH CIR. 2021);
DAWSON V. ARCHAMBEAU, 2022 U.S. APP. LEXIS 30870 (10TH CIR. 2022);
PALMER V. ROBBINS, 2023 U.S. APP. LEXIS 23774 (11TH CIR. 2023).

EVEN THE U.S. SUPREME COURT ALLUDES TO THE NOTICE OF APPEALS ENCOMPASSES ALL ORDERS IN U.S. V. MACDONALD, 435 U.S. 850 (1978). SEE ALSO SCARROUGH V. PRINCIPAL, 541 U.S. 401 (2004) "... IMPERFECTIONS IN NOTICING AN APPEAL SHOULD NOT BE FATAL WHERE NO GENUINE COURT EXIST ABOUT WHO IS APPEALING, FROM WHAT JUDGMENT TO WHICH COURT". SEE ALSO PEREIRA V. SESSIONS, 585 U.S. 198 (2018). SEE DUPRE V. YOUNGER, 598 U.S. 729 (2023).

YOUR PETITIONER HAS NO OTHER ADEQUATE MEANS TO OBTAIN THE REQUESTED RELIEF IN THAT THE CLERK'S OF THE 5TH CIRCUIT HAVE CLEARLY STATED THAT THEY "WILL NOT FILE OR ACKNOWLEDGE ANY ADDITIONAL DOCUMENTS IN THIS CASE, " BEING APP. NO. 22-10447 (SEE APP. NO. 22-10447, 10-2-24 CLERK'S LETTER), AND NO OTHER APPELLATE COURT HAS DIRECT MANDATORY OR OBLIGATORY REVIEW; EXCEPT THE MOST HON. U.S. SUPREME COURT, AND, MOREOVER, PETITIONER HAS "A CLEAR AND INDISPUTABLE" RIGHT TO THE WRIT AS HE HAS A FIRST AMENDMENT RIGHT TO ADEQUATE ACCESS TO COURT UNDER THE HOLDINGS OF NORSWORTHY, SUPRA, AND HE HAS A 5TH AND 14TH AMENDMENT RIGHT OF DUE PROCESS AND EQUAL PROTECTION TO HAVE THE NORSWORTHY STANDARD OF REVIEW APPLY TO HIM ALSO JUST AS ALL OTHER U.S. CITIZENS, MALLARD V. U.S. DIST. CT. FOR S. DIST., 490 U.S. 296 (1989).

THE MERE FACT THAT YOUR PETITIONER HAS DEMONSTRATED A CLEAR ABUSE OF DISCRETION OR CONDUCT BY THE 5TH CIRCUIT AMOUNTING TO

USURPATION OF JUDICIAL POWER IN THAT SAID COURT KNOWINGLY AND INTENTIONALLY, NOT ONLY WENT AGAINST THE HOLDINGS OF EVERY SINGLE U.S. CIRCUIT COURT OF APPEALS AND EVEN THE U.S. SUPREME COURT, BUT ALSO WENT AGAINST IT'S VERY OWN HOLDING AND RULING OF NORSWORTHY, SUPRA, FOR THE SOLE REASON SINCE THE FEDERAL DISTRICT COURT HAS ALREADY DESIGNATED PETITIONER, AND MANY OTHER "BLACK" LITIGANTS SO SIMILARLY SITUATED, AS A "BL" OR "BLACK" LITIGANT IN THE CAPTION OF ALL HIS PREVIOUS CAUSES TO REMIND ITSELF TO LATER DISMISS HIS CASE SOLELY BECAUSE OF PETITIONER'S RACE WHICH THE 5TH CIRCUIT FELT COMPELLED TO CO-STEN AND GO ALONG WITH AS IT HAS DONE IN ALL PETITIONER'S PREVIOUS CASES SOLELY DUE TO HIS RACE, HE IS ENTITLED TO ISSUANCE OF WRIT OF HABEAS CORPUS, MALLARD, SUPRA, 1

TO DESIGNATE PETITIONER'S CASES FOR AUTOMATIC DISMISSAL SOLELY DUE TO HIS RACE IS BEYOND THE LOWER COURT'S JURISDICTION, AND USURPATION AT ITS WORT. MALLARD, SUPRA, MYLER V. FRENCH, 530 US 327 (2000).

ON 10-13-24, PETITIONER FILED HIS PETITION FOR A WRIT OF HABEAS CORPUS IN THE 5TH CIRCUIT DEMONSTRATING A CLEAR ABUSE OF DISCRETION OR CONDUCT BY THE 5TH CIRCUIT'S PANEL (AND THE 5TH CIR. CLERK) AMOUNTING TO A USURPATION OF ITS JUDICIAL POWER BY IT'S DENIAL OF PETITIONER'S RIGHT TO ACCESS THE COURT, DUE PROCESS AND EQUAL PROTECTION OF LAW, AND THAT DUE TO THE 5TH CIRCUIT CLERK'S ADMITTANCE THAT THEY WILL NOT FILE OR EVEN ACKNOWLEDGE ANYTHING HE FILES IN APR. NO 22-10447, HE HAS FURTHER DEMONSTRATED THAT HE HAS NO FURTHER OR ADEQUATE REMEDY AT LAW; THAT HABEAS CORPUS JURISDICTION IS IN AND OF THE 5TH CIRCUIT'S APPELLATE JURISDICTION. U.S. V. NY. TEL. CO. 434 US 159 (1977); IN RE US, 139 S.Ct. 452 (2018); IN RE JONES, SUPRA; COTLER V. I-C.O.A., NO. 530 F.2d 536 (8)

(3RD CIR, 1976), AMERICAN FID. FIRE INS. CO. V. US DIST. CT. FOR N. DIST., 538 F.2d 1371 (9TH CIR, 1976), U.S. V. SANCHEZ-GOMEZ, 584 US 381 (2018). HE FURTHER URGED THAT THE 5TH CIRCUIT MAY ISSUE MANDAMUS RELIEF TO AVAIL ITSELF OF ALL AUXILIARY WAITS AS AID IN PERFORMANCE OF ITS DUTIES, WHEN USE OF SUCH HISTORIC AIDS IS CALCULATED IN ITS SOUND JUDGMENT TO ACHIEVE ENDS OF JUSTICE ENTRUSTED TO IT ~~AND~~ TO DO SO. U.S. V. A.Y. TEL. CO., SUPRA.

HOWEVER, DUE TO THE FACT THE DISTRICT COURT HAS CREATED AND HAS BEEN USING THE STATED RACIAL DESIGNATOR OR MARKER IN THE CAPTION OF PETITIONER'S CASE NUMBER OF "BL" IN ALL HIS PREVIOUS CASES — IN CASE NOS) 7-12-CV-185-BL; 7-13-CV-038-BL; 7-13-CV-090-BL; 7-13-CV-243-BL — TO REMIND ITSELF THAT PETITIONER IS A "BLACK" LITIGANT, AND ONLY CEASED TO DO SO IN THE INSTANT CASE WHEN QUESTIONED BY PETITIONER, YET THE 5TH CIRCUIT HAS NOT ONLY BEEN MADE AWARE OF THIS FACT BUT HAS CONTINUALLY CO-SIGNED AND GONE ALONG WITH THIS PRACTICE BY ITS REFUSAL TO ADDRESS SAME, THEREFORE, PETITIONER BELIEVES HE CAN NOT RECEIVE RELIEF FROM THE COURTS BELOW.

PETITIONER WIGHT AND THAT IT HAS ALWAYS BEEN THE 5TH CIRCUIT'S TACTIC TO FIND SOME ERRONEOUS TECHNICALITY TO DISMISS HIS CAUSES INSTEAD OF RULING ON THE MERITS BECAUSE OF HIS FOREVER DESIGNATION OF "BL" (ALL EXCEPT APPL. NO. 16-10238).

THIS FORM OF BIAS, PREJUDICE AND RACISM SHOULD NOT BE TOLERATED BY THE HON. U.S. SUPREME COURT, FOR THESE REASONS THE COURT SHOULD GRANT MANDAMUS.

MOREOVER, YOUR PETITIONER HAS FILED AROUND 100 MOTIONS IN THE LOWER COURTS AND RESPONDENTS HAVE DONE THE SAME. THE LOWER COURTS HAVE BASICALLY DENIED EVERY ONE OF PETITIONER'S MOTIONS EXCEPT FOR HIS MOTIONS FOR EXTENSION OF TIME, YET THEY HAVE GRANTED EVERY SINGLE MOTION FILED BY RESPONDENTS. MORE SPECIFICALLY, FOR

EXAMPLE, YOUR PETITIONER FILED HIS MOTION TO EXCEED THE 30 PAGE LIMIT TO FILE APPEAL BRIEF AND FILED HIS 38 PAGE BRIEF. THE LOWER COURTS REJECTED SAME DEMANDING HE FILE 30 PAGES OR LESS, HOWEVER, THE RESPONDENTS FILED A 48 PAGE BRIEF WITH PRINT ON BOTH SIDES OF THE PAGE AND FAILED TO FILE ANY MOTION TO EXCEED THE PAGE LIMIT, YET THE 5TH CIRCUIT SAID NOTHING AND SILENTLY ALLOWED SAME. WHEN PETITIONER FILED MOTION TO STRIKE RESPONDENTS' BRIEF FOR REASONS STATED, THE 5TH CIRCUIT SIMPLY DENIED HIS APPEAL.

THERE IS NO WAY PETITIONER CAN RECEIVE A FAIR AND IMPARTIAL REVIEW BY THE LOWER COURTS FOR REASONS STATED, THEREFORE MANAMUS RELIEF IS REQUIRED BY THIS COURT.

V. CONCERNING SUMMARY JUDGMENT AND JEP

AS STIPULATED IN BOTH HIS "PETITION FOR WRIT OF CERTIORARI" (WRIT OF CERT.) AND ALSO HIS "PETITION FOR EXTRAORDINARY WRIT" (EXT. WRIT), YOUR PETITIONER CLEARLY SET OUT HOW, ALTHOUGH THE LOWER COURTS CORRECTLY SET OUT THE STANDARD OF SUMMARY JUDGMENT REVIEW, THEY KNOWINGLY AND INTENTIONALLY AND ERRONEOUSLY "TEMPORARILY CHANGED OR IGNORED OR SUSPENDED OR EVEN SET ASIDE THE STANDARD OF THE LAW..." TO DENY PETITIONER, AND OTHERS SO SIMILARLY SITUATED, A FULL AND FAIR REVIEW ON APPEAL SOLELY BECAUSE HE HAS BEEN DESIGNATED AS A "BL" OR "BLACK" LITIGANT "SO THAT HIS CLAIM(S) WOULD BE UNCONSTITUTIONALLY ASSKESSED (SEE WRIT OF CERT., P. 11-17; EXT. WRIT, P. 66-8).

MOREOVER, AS PRESENTED IN BOTH HIS WRIT OF CERT. AND ALSO HIS EXT. WRIT, YOUR PETITIONER CLEARLY SET OUT HOW THE LOWER COURTS HAVE ALLOWED THE RESPONDENTS TO CIRCUMVENT THE "3 STRIKES" RULE
(10)

SION AS INTENDED BY CONGRESS (SEE WRIT OF CERT, P. 17-18; EXT. WRIT, P. 9-12).

THE 5TH CIRCUIT HAS DENIED PETITIONER OF ANY AND ALL REVIEW ON APPEAL FOR THE SPECIFIC REASON SO IT WOULD NOT HAVE TO ADDRESS THE BTAS, RESISTANCE AND RACIST "BL" DESIGNATOR OR MONIKER USED BY THE DISTRICT COURT WHICH DEPRIVES PETITIONER, AND ALL "BLACK" PRISON LITIGANTS AND/OR BLACK FREEMAN LITIGANTS, OF COURT ACCESS ALL IN VIOLATION OF THE U.S. CONSTITUTION.

CONCLUSION

YOUR PETITIONER HAS BASICALLY PRESENTED THE ABOVE TO THE 5TH CIRCUIT IN HIS 10-13-24 PETITIONER FOR WRIT OF MANDAMUS; HOWEVER, THE 5TH CIRCUIT HAS NOT AND WILL NOT RULE ON IT NOR ANYTHING HE FILES FOR REASONS STATED,

IF THE 5TH CIRCUIT HAD AT THE VERY LEAST FOLLOWED ITS OWN LAW AS PRESENTED IN NORSWORTHY, YOUR PETITIONER WOULD NOT BE FORCED TO PAY A MANDAMUS FEE WHICH IS THE 5TH CIRCUIT'S NEWLY CREATIVE WAY TO CAUSE PETITIONER (AND OTHERS) TO PAY A SECOND APPELLATE FILING FEE, BUT SINCE HE DOES NOT RECEIVE A WAGE — AS PRISONERS IN OTHER STATES — HIS FAMILY IS LEFT TO FOOT THE BILL. HIS FAMILY WHO ARE NOT RESPONSIBLE FOR PAYING HIS FILING FEES SHOULD BE REIMBURSED.

MANDAMUS AND PROHIBITION RELIEF

FOR REASONS STATED IN HIS WRIT OF CERT, EXT. WRIT AND HIS WRIT OF MAND, YOUR PETITIONER REQUEST MANDAMUS RELIEF AS FOLLOWS:

1. THAT THE LOWER COURTS ENTER ORDERS REVERSING THE GRANTING OF RESPONDENTS MOTIONS FOR SUMMARY JUDGMENTS AND ENTER ORDERS DENYING BOTH OF THEM; THAT PETITIONER'S CROSS-MOVE FOR SUMMARY JUDGMENT BE IN ALL THINGS GRANTED AS STIPULATED IN HIS BRIEF, REPLY BRIEF AND OTHER HEARINGS,

2, THAT THE LOWER COURTS ENTER ORDER THAT PETITIONER'S NOTICE OF APPEALS ENCOMPASSES ALL ORDERS AND THE LOWER COURTS SHALL ENTERTAIN ALL TEN (10) GROUNDS OF ERROR ANEW FOR REASONS STATED.

3, THAT THE COURTS FIND THE FEDERAL DISTRICT COURT HAS KNOWINGLY AND INTENTIONALLY CREATED AND BEEN USING A RACIAL DISGAMATOR OR MONIKER IN THE CAPTION OF PETITIONER'S CAUSE NUMBER OF "AL" IN ALL HIS PREVIOUS CASES WHICH NOT ONLY PREJUDICED HIM IN THOSE CASES BUT ALSO AS WELL IN THE INSTANT CAUSE WHICH HAS DENIED HIM OF HIS FIRST AMENDMENT RIGHT TO ADEQUATE ACCESS TO COURT, AND HIS 5TH AND 14TH AMENDMENT RIGHT TO DUE PROCESS AND THE EQUAL PROTECTION OF LAW.

4, THAT THE LOWER COURTS ENTER FINDINGS THAT PETITIONER HAS SUBMITTED EVIDENCE THAT HE SUFFERS FROM A TORN ROTATOR CUFF SINCE 2000 AND THAT THE RESPONDENTS HAVE CONSTANTLY AND CONTINUALLY, KNOWINGLY AND INTENTIONALLY AND SADISTICALLY RIPPED HIS SHOULDER OUT OF PLACE WELL OVER 50 TIMES BY BACK CUFFING HIM CONTRARY TO HIS LONG MEDICAL HISTORY AND MEDICAL REPORTS FOR THE SOLE REASON TO RETALIATE AGAINST PETITIONER FOR FILING SUIT.

5, THAT THE LOWER COURTS ENTERS FINDINGS THAT PETITIONER IS TO BE ISSUED A "PERTINENT FRONT CUFF ONLY PASS."

6, THE LOWER COURTS ENTER ORDER THAT ANY AND/OR ALL PETITIONER'S MEDICAL RECORDS, HANDCUFF PASSES AND ANY AND/OR ALL OF HIS MEDICAL DOCUMENTS BE RETURNED TO HIM WITHIN 30 DAYS.

7, THAT THE LOWER COURTS ENTER ORDER DIRECTING THE RESPONDENTS TO PROVIDE PETITIONER WITH ANY AND ALL OF HIS DISCOVERY REQUESTS

AS PRESENTED IN HIS STATED ELEVEN(11) MOTIONS FOR DISCOVERY NOW BEFORE THE LOWER COURTS WITHIN 30 DAYS, THAT ANY FURTHER AND/OR FUTURE DISCOVERY BY PETITIONER BE PROVIDED TO HIM WITHIN 30 DAYS FROM REQUEST.

8. THAT THE LOWER COURTS ENTER ORDER FINDING THAT ANY AND ALL OF ADMISSIONS REQUESTED BY PETITIONER IN HIS DISCOVERY BE HEREBY ADMITTED BY RESPONDENTS BY OPERATION OF LAW AS THEY FAILED TO DENY SAME AND/OR FAILED TO RESPOND AT ALL,

9. THAT THE LOWER COURTS ENTER FINDINGS THAT THEY HAVE TEMPORARILY CHANGED, IGNORED OR SUSPENDED OR EVEN SET ASIDE THE SUMMARY JUDGMENT STANDARD OF LAW TO DENY PETITIONER A FULL AND FAIR REVIEW ON APPEAL SOLELY BECAUSE HE HAS BEEN DESIGNATED AS A "AL" OR "BLACK" LITIGANT, THUS HE HAS BEEN DENIED ADEQUATE ACCESS TO COURT, DUE PROCESS AND THE EQUAL PROTECTION UNDER THE LAW.

10. THAT THE LOWER COURTS LIBERALLY CONSTRUCT ANY AND ALL OF PETITIONER'S PLEADINGS; THAT ANY AND ALL OF HIS TRAVEL'S BE GRANTED WITHIN 30 DAYS,

11. THAT THE LOWER COURTS ENTER ORDER THAT DUE TO FACT PETITIONER WAS GRANTED JFD STATUS IN HIS INITIAL FILING OF SUIT AND HIS INITIAL APPEAL DUE TO "IMMINENT DANGER" IN THE INSTANT CASE, THAT HE SHALL THEREFORE BE PERMITTED TO CONTINUE TO PROCEED JFD DURING ANY APPEAL AND ALL APPEALS IN THE INSTANT CASE IRRESPECTIVE OF ANY FURTHER CREATIVE DISMISSALS AND/OR APPEALS; THAT ANY AND ALL FILING FEES PAID BY HIM OR HIS FAMILY SHALL BE RETURNED TO HIM WITHIN 30 DAYS.

12. THAT THE LOWER COURTS ENTER ORDER THAT THE "3 STRIKES" PROVISION OF 28 USC § 1915 BE HELD UNCONSTITUTIONAL "ONLY IN TEXAS" DUE SOLELY TO THE FACT THAT IT VIOLATES THEIR CONSTITUTIONAL RIGHT TO ACCESS THE COURT, DUE PROCESS AND THE EQUAL PROTECTION UNDER THE LAW IN THAT TEXAS IS THE ONLY STATE (OR ONE OF TWO) THAT DOES NOT

PAY ITS PRISONERS A WAGE AND THUS THEY DO NOT HAVE THE OPTION WHETHER TO PAY THEIR FILING FEE FROM THEIR PRISON WAGES AS PRISONERS IN OTHER STATES,

13. THAT THE LOWER COURTS ENTER ORDER GRANTING PETITIONER'S PETITION FOR WRIT OF HABEAS BY REINSTATING HIS APPEAL, BY REHEARING HIS ENTIRE APPEAL, BY REVIEWING ALL TEN(10) GROUNDS ANEW, REVERSE CAUSE FOR SETTLEMENT OR TRIAL WITHOUT FURTHER DELAY OR REMAND, AND ANY AND ALL FURTHER ORDERS CONSISTANT WITH THIS COURT'S RULINGS; THAT HABEAS FILING FEE BE RETURNED IN 30 DAYS.

14. THAT THE ~~LOWER~~ COURT DETERMINES THAT THE 5TH CIRCUIT PROVIDED PETITIONER WITH AN INCORRECT ADDRESS TO THE "JUDICIAL CONFERENCE COMMITTEE OF JUDICIAL CONDUCT AND DISABILITY" TO APPEAL THE 5TH CIRCUIT'S DENIAL OF HIS COMPLAINT AND THAT THE 5TH CIRCUIT MUST NOW CAUSE APPEAL TO BE SENT TO CORRECT ADDRESS WITH EXPLANATION WHEREBY APPEAL WILL BE CONSIDERED TIMELY FILED; WITHIN 30 DAYS.

FOR REASONS STATED IN HIS WRIT OF CERT, EXT. WRIT AND HIS WRIT OF HABEAS, YOUR PETITIONER REQUEST PROHIBITION RELIEF AS FOLLOWS;

1. THAT THE LOWER COURTS BE PROHIBITED FROM GRANTING RESPONDENTS' MOTIONS FOR SUMMARY JUDGMENTS,
 2. THAT THE LOWER COURTS ARE PROHIBITED FROM TEMPORARILY SETTING ASIDE THE LAW STIPULATED IN NORSWORTHY, OR ANY OTHER CAUSE OR LAW, AND USE HINSLEY OR ANY OTHER CAUSE OR LAW INSTEAD, IN AN EFFORT TO DEPRIVE PETITIONER OR ANYONE ELSE OF PROPER APPELLATE REVIEW,
 3. THAT THE LOWER COURTS ARE PROHIBITED FROM USING "BL" AND/OR ANY AND ALL RACIAL DESIGNATORS OR MONIKERS IN THE CAPTION OF
- (14)

THEIR CAUSES NUMBERS.

4. THAT THE LOWER COURTS ENTER ORDER DIRECTING RESPONDENTS, THEIR AGENTS AND EMPLOYEES ("RESPONDENTS") ARE PROHIBITED FROM BACK CUFFING PETITIONER FOR ANY REASON DUE TO HIS MEDICAL HISTORY OF TORN ROTATOR CUFF TEAR.
5. THAT RESPONDENTS ARE PROHIBITED FROM CONFISCATING ANY OR ALL OF PETITIONER'S MEDICAL RECORDS, X-RAYS OR ANY MEDICAL DOCUMENTS FOR ANY REASON.
6. THAT THE LOWER COURTS BE PROHIBITED FROM GRANTING JUDGMENT AGAINST PETITIONER BY RESPONDENTS' FAILURE TO PROVIDE HIM WITH THE VERY DISCOVERY REQUEST THAT HE NEEDS TO DEFEAT SUMMARY JUDGMENT AND WHICH HE NEEDS TO PREVAL AT TRIAL.
7. THAT THE LOWER COURTS ARE PROHIBITED FROM USING THE 3 STRIKES PROVISION OF 28 VSC § 1915 "IN THE STATE OF TEXAS ONLY" AS IT IS UNCONSTITUTIONAL IN THAT STATE ONLY.
8. THAT THE LOWER COURTS ARE PROHIBITED FROM DISMISSING PETITIONER'S OR ANY TEXAS PRISONER'S CASE DUE TO FACT RESPONDENTS TRANSFER HIM AND/OR THEM TO ANOTHER ONE OF THEIR PRISON FACILITIES.
9. THE LOWER COURTS BE PROHIBITED FROM THEIR FAILURE OR REFUSAL TO ADDRESS AND/OR GRANT ANY OF PETITIONER'S MOTIONS, PETITIONS, PLEADINGS AND/OR EXCEPIONS FOR ANY REASON BUT ESPECIALLY DUE TO FACT HE HAS BEEN DESIGNATED AS A "BL" OR BLACK LITIGANT OR DUE TO THE COLOR OF HIS SKIN; THE LOWER COURTS MUST ADDRESS ALL PLEADINGS FILED BY PETITIONER EXPLANATORILY AND PROHIBITED FROM JUST SIMPLY RULING "MOTION DENIED."

10. THAT THE LOWER COURTS ARE PROHIBITED FROM CHARGING PETITIONER ANY FURTHER AND/OR FUTURE APPELLATE FILING FEE NO MATTER HOW MANY TIMES THEY DISMISS AND/OR HE APPEALS THE INSTANT CASE,

11. THAT THE LOWER COURTS ARE PROHIBITED FROM CHARGING PETITIONER A WRIT OF HABEAS FILING FEE IN THE INSTANT CASE AS IT WOULD BE TANTAMOUNT TO A SECOND APPELLATE FILING FEE ESPECIALLY IN LIGHT OF THE FACT THE LOWER COURTS; (1) CLEARLY USED A STANDARD HINSELEY, ETC.; AND (2) SHOULD HAVE REVERSED HIS CASE IN THE FIRST PLACE; PROHIBITED FROM USING THESE CREATIVE WAYS OF RECEIVING PETITIONER SHOULD HAVE RECEIVED A FULL AND FAIR REVIEW OF ALL HIS GROUNDS OF ERROR IN THE FIRST, ALL DUE TO NO FAULT OF HIS OWN.

12. THAT THE LOWER COURTS BE PROHIBITED IN DENYING PETITIONER, AND OTHERS SO SIMILARLY SITUATED, FROM PROCEEDING JFY UNDER THE "IMMINENT DANGER" PROVISION BECAUSE HE AND/OR THEY HAVE BEEN TRANSFERRED TO ANOTHER ONE OF RESPONDENTS PRISON UNITS; HE'S STILL UNDER CONSTRUCTIVE AND RETALIATORICAL REACH OF THE TEXAS PRISON DIRECTOR.

CONCLUSION

THE PETITION FOR WRIT OF HABEAS SHOULD BE GRANTED.

RESPECTFULLY SUBMITTED,

THOMAS SAWYER
THOMAS SAWYER, PETITIONER

DATE: 12-23-24

WHEREFORE, PETITIONER WANTS THE PETITION BE IN ALL THINGS GRANTED
AND ANY AND ALL FURTHER RELIEF THE COURT DEEMS FAIR AND JUST,

RESPECTFULLY SUBMITTED,

THOMAS SAWYER

THOMAS SAWYER, PETITIONER

VERIFICATION

I THOMAS SAWYER, TICS ID# 579557, DECLARE UNDER PENALTY OF
PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED THIS 29TH
DAY OF NOVEMBER 2024. 28 USC § 1746.

THOMAS SAWYER

THOMAS SAWYER, PETITIONER

CERTIFICATE OF SERVICE

I THOMAS SAWYER, PETITIONER HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE FOREGOING HAS BEEN SERVED ON THE CLERK AND
ATTORNEY GENERAL KEN PAXTON, BY FIRST CLASS MAIL, POSTAGE PREPAID,
ON THIS 23RD DAY OF DECEMBER 2024.

THOMAS SAWYER

THOMAS SAWYER, PETITIONER
TICS ID# 579557

FOOTNOTES

1 PETITIONER FILED IN THE 5TH CIRCUIT:

(a) "APPELLANT'S CHALLENGE TO THE DISTRICT COURT'S RULING THAT APPEAL IS NOT TAKEN IN GOOD FAITH AND MOTION FOR LEAVE TO PROCEED, IF ON APPEAL AND IN DISTRICT COURT" (APPL. NO. 14-11165; OP. 11-24-14¹³⁻²³⁻¹⁵).

(b) "APPELLANT'S SUPPORTING BRIEF AND CHALLENGE TO THE DISTRICT COURT'S RULING THAT APPEAL IS NOT TAKEN IN GOOD FAITH" (APPL. NO. 16-10238~~8~~; OP. 4-22-16).

ALTHOUGH THESE PLEAINGS ARE ESSENTIALLY THE SAME AS FOR AS ARGUMENTS ARE CONCERNED " (a) " WAS DENIED FOR THE SOLE TECHNICALITY OF NOT HAVING THE WORDS "SUPPORTING BRIEF" IN ITS TITLE WHILE " (b) " WAS GRANTED BECAUSE IT DID. THE 5TH CIRCUIT CLEARLY FAILED TO LIBERALLY CONSTRUCT HIS PLEAING AND HELD HIM TO THE STRINGENT STANDARDS OF A LAWYER, VIOLATING THIS COURT'S RULING OF NAINES V. KERWER, 92 S.Ct 544 (1972); SCHNEIDER V. RHODES, 94 S.Ct 1683 (1974).

(c) IN APPL. 21-10235; OP. 3-28-22, IN ORDER FOR PETITIONER TO HAVE MADE "A SUBSTANTIAL SHOWING OF THE DENIAL OF A CONSTITUTIONAL RIGHT" FOR PURPOSES OF C.O.A., BY ESTABLISHING "THAT REASONABLE JURISTS WOULD FIND THE DECISION TO DENY RELIEF DEBATABLE OR WRONG," OR THAT THE ISSUES THAT HE RAISES "ARE ADEQUATE TO DESERVE ENCOURAGEMENT TO PROCEED FURTHER," YOUR PETITIONER WOULD HAVE LIKELY TO HAVE HAD AN AFFIDAVIT FROM A U.S. SUPREME COURT JUSTICE STATING HE/SHE WOULD HAVE RULED IN PETITIONER'S FAVOR FOR THE 5TH CIRCUIT'S APPROVAL IN GRANTING C.O.A., BASED ON INFORMATION AND BELIEF.

(d) IN PETITIONER'S CRIMINAL CASE OF STATE V. SAWYER, CASE NO. 89-CR-2667-H, THE 5TH CIRCUIT CORRECTLY QUOTED THE SUMMARY JUDGMENT LAW, HOWEVER, IT TOTALLY IGNORED THE RECORD AND THE EVIDENCE, E.G., THAT IT WAS IMPOSSIBLE FOR HIS CONVICTION TO STAND AS AN HABITUAL CONVICTION BE TO FACT HE PROVED HIS SECOND CONVICTION WAS NOT FINAL AT THE TIME HE ALLEGEDLY COMMITTED THE OFFENCE OF MANSLAUGHTER ON 12-9-89 BUT ONLY BECAME FINAL MONTHS LATER. THE 5TH CIRCUIT TOTALLY IGNORED THE EVIDENCE AND GRANTED SUMMARY JUDGMENT FOR THE STATE.

(FOOTNOTES CONT)

- 2 THE 5TH CIRCUIT COURT'S ~~OWN~~ FAILURE TO MAKE SUCH AN INQUIRY AS TO WHY PETITIONER HAD NOT COMPLIED TO THE CLERK'S LETTER "WILL RENDER A SUBSEQUENT DISMISSAL OF FAILURE TO COMPLY AN ABUSE OF DISCRETION. WHAMSLEY V. POLINSKY, 2000 US APP LEXIS 41218 (5TH CIR. 2000). HOWEVER, THE 5TH CIRCUIT DOES NOT FOLLOW EVEN IT'S OWN RULINGS WHEN IT COMES TO "BL's."
- 3 ALTHOUGH THE FRAP RULE 27(G) EXPLICITLY PROVIDES PETITIONER, THE PARTY ADVERSLEY AFFECTED BY THE CLERK'S ACTION, THE RIGHT TO FILE A MOTION TO RECONSIDER, VACATE, OR MODIFY THAT ACTION, THE CLERKS OF THE 5TH CIRCUIT ARE NOT TRYING TO HEAR THAT AS THEY HAVE INFORMED PETITIONER THAT THEY ARE NOT GOING TO PRESENT HIS PLEADINGS TO A COURT JUDGE.
- 4 IN COMPANION CASE NO. 7-13-040-BL, 5TH CIRCUIT CLERK KNOWINGLY AND INTENTIONALLY ERRONEOUS INFORMED PETITIONER THAT, ALTHOUGH HE TIMELY PLACED PLEADING IN INSTITUTIONAL MAILBOX AND VERIFIED TIMELINESS UNDER 28 USC § 1746, BECAUSE THE 5TH CIRCUIT CLAIMS IT RECEIVED IT TWO (2) OR THREE (3) WEEKS LATE (DUE TO NO FAULT OF PETITIONER), INSTEAD OF THE COURT ENTERTAINING SAID PLEADING AS TIMELY FILED, SAID CLERK ERRONEOUSLY INFORMED PETITIONER THAT IT WOULD BE HEARD LATER, YET IT WAS NOT CAUSING HIM TO LOSE APPEAL (SEE BRIEF, P. 13; SEE CASE NO. 7-13-040-BL; USCA 14-11165).
- 5 ALTHOUGH MAILROOM OFFICIALS' "DOCUMENTED RESPONSE" STATE THAT THEY RECEIVED PLEADING 7-5-24 AND MAILED 7-8-24, 5TH CIRCUIT CLAIMS COURT DID NOT RECEIVE UNTIL 7-22-24 (SEE [PETITIONER'S] THIRD MOTION TO REOPEN APPEAL... P. 3). (SEE ALSO "EXHIBIT A" — "DOCUMENTED RESPONSE" FROM MAILROOM OFFICIAL; ALSO "EXHIBIT B" — "DOCUMENTED RESPONSE" FROM MAILROOM OFFICIAL; P. 3).