No. 24-6760

IN THE SUPREME COURT OF THE UNITED STATES

Christopher-Michael: Williams,

PETITIONER,

vs.

PAVAN PARIKH, HAMILTON COUNTY CLERK,

RESPONDENT.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

PETITION FOR CERTIORARI

Christopher-Michael: Williams
Ohio prisoner, (#723739) in Propria Persona
Chillicothe Correctional Institution
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Chillicothe, Ohio 45601

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I. QUESTIONS PRESENTED FOR REVIEW

1. Is a State Court Clerk entitled to absolute quasi-judicial immunity regardless of their conduct due to their administrative duties being closely intertwined with the judicial machinery?

2. Regarding quasi-judicial immunity, may this Court's decision in Antoine v. Byers & Anderson, 508 U.S. 429 be abridged through the 6th Circuits jurisprudence of Bush v. Rauch, 38 F.3d 842, in order to shield state-actors from liability if their personal involvement produces a violation of civil rights upon a U.S. citizen?

3. Does a State court clerk violate a citizen's 1st amendment right to petition the government for redress of grievances, when they file the citizen's initial complaint into the trash, even though the suit is properly filed?

4. Do state court clerks' duties include discretionary judgment of whether or not to file citizens' complaints that are properly filed?

LIST OF PARTIES IN COURT BELOW

The caption set out above contains the names of all the parties.

LIST OF CASES DIRECTLY RELATED TO THIS CASE

No cases are related to this case.

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IV. PETITION FOR WRIT OF CERTIORARI

I am an Incarcerated Person detained at Chillicothe Correctional Institution in Chillicothe, Ohio petitioning in Propria Persona, respectfully petitions this court for a writ of certiorari to review the judgment of the 6th Circuit Court of Appeals.

V. OPINIONS BELOW

The decision by the United States District Court denying Mr. Williams the ability to proceed with his law suit is reported as **Williams v. Parikh**, 708 F. Supp. 3d 1345 (United States District Court for the Southern District of Ohio, Western Division December 21, 2023). The 6th Circuit Court of Appeals denied Mr. Williams his appeal on September 4, 2024. That order is attached at Appendix page 16. Mr. Williams timely filed an application for rehearing En Banc that was denied October 25, 2024. That order is attached at Appendix page 22.

VI. JURISDICTIONAL STATEMENT

The judgment of the United States Court of Appeals for the 6th Circuit was entered on Sept. 4, 2024. Rehearing was sought and denied October 25, 2024. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

VII. CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

1. The First Amendment, United States Constitution, provides:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to **petition the Government for a redress of grievances.**

2. The statute under which Petitioner brought the original action was 42 U.S.C.S. §1983 which states in relevant part:

"**Every person** who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress..."

3. The 9th Amendment, United States Constitution, Provides:

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

VIII. STATEMENT OF THE CASE

The facts necessary to place in their setting the questions now raised can be briefly stated:

I. COURSE OF PROCEEDINGS IN THE SECTION 42 USC §1983 ORIGINAL ACTION CASE NOW BEFORE THIS COURT.

In September 2022 and January 2023 Petitioner within his constitutional rights commenced to file an action against Ohio Job and Family Services in the Hamilton County Court of Common Pleas. The Clerk Parikh's Deputies under his supervision lost or discarded the action. On December 21, 2023 the District Court Judge DOUGLAS R. COLE dismissed the action according to established law, without prejudice, asserting that there was a conflict between this court's judgment in Antoine v. Byers & Anderson, 508 U.S. 429, and the 6th Circuits judgment in Bush v. Rauch, 38 F.3d 842.

On September 4, 2024, the 6th Circuit Court of Appeals entered a judgment completely avoiding the constitutional question and conflict of jurisprudence asserted by District Court Judge DOUGLAS R. COLE, and forwarded by me. The court ignored my constitutional question and reassertion of District Court Judge DOUGLAS R. COLE's conundrum of conflicting authorities cited in his judgment. Whereby, a petition to this Court for a Writ of Certiorari is timely filed for this court to create clarity for the American people in regards to their rights to petition the government for redress of grievances as so enumerated in the constitution.

II. THE 6th CIRCUIT COURT OF APPEALS HAS DECIDED A FEDERAL QUESTION IN A WAY THAT EGREGIOUSLY CONFLICTS WITH THE APPLICABLE DECISION OF THE COURT.

This is an access to the courts case. The 6th circuit's legitimate desire to protect court officials from frivolous or malicious claims that are entitled to absolute qualified immunity is being accomplished in a way that violates the constitution, and this courts jurisprudence regarding the standard set forth in the reasonable common law immunity doctrine of judges to be applied to officers of his court acting as his arm of execution. The stance taken by the 6th circuit

creates an unauthorized blanket of immunity for all court officers to be clothed with the status and constitutional protections of a judge simply because they are a part of the judicial branch or its functions. It creates a nullification of the constitution's 1st and 14th Amendment under the guise of supported jurisprudence for the purpose of capricious justice through personal opinion to the injury of U.S. citizens, making the constitution and civil rights irrelevant to holders of office. This slight encroachment produces tyranny and prejudice to victims of officers who act under color of law through neglect to their duties and oath. "Convicted prisoners do not forfeit all constitutional protections by reason of their conviction and confinement in prison." Bell v. Wolfish, 441 U.S. 520, 545, 99 S. Ct. 1861, 60 L. Ed. 2d 447 (1979). "However, convicted prisoners do not retain constitutional rights that are inconsistent with incarceration" Overton v. Bazzetta, 539 U.S. 126, 131, 123 S. Ct. 2162, 156 L. Ed. 2d 162 (2003). In our country, even convicted prisoners have constitutional rights. "When state officials tasked with securing these rights violate them, the law provides a remedy under 42 U.S.C. § 1983" Parnell v. Fitz, 640 F. Supp. 3d 819. If not addressed, other circuits could follow, and the simple pure liberties guaranteed by the constitution could slowly erode away through similar, slight, invisible abrogation's of constitutional law.

ARGUMENT FOR ALLOWANCE OF WRIT

I. The Court of Appeals Erred in Affirming on the Basis That the Court clerk was entitled to absolute immunity regardless of the acts taken against the plaintiff, and decided a federal question in conflict with the applicable decisions of this Court.

Williams v. Parikh, 2024 U.S. App. LEXIS 22602 United States Court of Appeals for the Sixth Circuit, September 4, 2024, Filed, No. 24-3059 the 6th Cir. Court stated:

"If that were not enough to dismiss Williams's § 1983 claims against Parikh in his individual capacity, Parikh is entitled to absolute quasi-judicial immunity, which applies to non-judicial officials "performing tasks so integral or intertwined with the judicial process that these persons are considered an arm of the judicial officer who is immune." Bush v. Rauch, 38 F.3d 842, 847 (6th Cir. 1994). Because Williams's allegations are based on actions that Parikh took while performing his quasi-judicial duties, Parikh is entitled to absolute quasi-judicial immunity. See

Wojnicz v. Davis, 80 F. App'x 382, 383-84 (6th Cir. 2003); Mwonyonyi v. Gieszl, No. 89-5495, 1990 U.S. App. LEXIS 2048, 1990 WL 10713, at *2 (6th Cir. Feb. 9, 1990) (acknowledging clerk's absolute quasi-judicial immunity for alleged refusal to file a document)."

Being "Entitled" to immunity, and whether or not it is applicable for the actions an officer takes under color of law that produces injury to constitutional rights are not under the same test of liability and application due to the wording of 42 USCS §1983, and the 14th and 1st Amendments. Without the aligning of the conflict between this court and the 6th Circuits opposing legal perspectives, defendants in the 6th Circuit and other Circuits across the country will be able to erroneously utilize the standard set in my action against the Clerk and further prevent me from bringing any claim for future injuries that will result as I proceed in the civil venue as a U.S. Citizen, and other similar situated U.S. Citizens. Clerks could just discard valid complaints with no repercussions absent the proper authority of the court constitutionally endowed with Judicial Discretion.

To further address the flawed interpretation there was an opinion issued by the Ohio Attorney General speaking to the rights of citizens to hold court clerks liable to injury which is contrary to the 6th circuit's jurisprudence and is in line with this court's unanimous holding stated in his opinion in 1970 with no other opinion of Ohio jurists or leading law enforcer to contradict. The opinion is found at **1970 Ohio AG LEXIS 65, Opinion No. 70-077** issued July 3, 1970 Request by: E. Raymond Morehart, Fairfield County Pros. Atty., Lancaster, Ohio, Opinion By: Paul W. Brown, Attorney General stating in relevant part:

> County recorders and common pleas court clerks and their deputies are liable, both personally and on their bonds, to the persons who may have been injured through their **negligent errors and omissions, including those arising from indexing and filing of papers within their respective offices.** The principle of sovereign immunity does not apply to protect public officers and their deputies from personal liability in the performance of ministerial duties.

Ohio Attorney General speaking to the rights of citizens generated his jurisprudence from Green v. Garrington, 16 Ohio St. 549, (1866). The state itself has admitted to the absence of immunity of court officers who fall under the designation proffered by this court in **Antoine v. Byers & Anderson, Inc., 508 U.S. 429, 113 S. Ct. 2167, 124 L. Ed. 2d 391 (1993)** further pointing to the disconnect of jurisprudence the 6th circuit has executed upon its section of the country and it will produce injury again if not rectified by the supervisory power of this honorable Supreme Court.

II. The Court of Appeals Erred by Determining Not to Give This Court's Decisions Dominance over its own jurisprudence.

In my Appeal, and application for En Banc reconsideration, I consistently utilized the statement of District Court Judge DOUGLAS R. COLE when he stated:

> And the Sixth Circuit has expounded on this point by holding that this immunity extends even to non-discretionary decisions.**10Link to the text of the note** Huffer v. Bogen, 503 F. App'x 455, 461 (6th Cir. 2012). (at Foot note 10 he stated:
>
> In laying out the standard that applies, the Court recognizes that there is perhaps reason to doubt its propriety in light of the Supreme Court's analysis in **Antoine v. Byers & Anderson, Inc., 508 U.S. 429, 113 S. Ct. 2167, 124 L. Ed. 2d 391 (1993).** See **Stern v. Felmet, No. 2:05-cv-907, 2007 U.S. Dist. LEXIS 23793, 2007 WL 1023948, at *6 (S.D. Ohio Mar. 30, 2007)** (finding that Antoine "casts doubt on [the Sixth Circuit's] broad, arm-of-the-absolutely-immune-court analysis where clerks of court are concerned"). In Antoine, the Supreme Court held that court reporters, who lack discretion in the performance of their duties, merit only qualified immunity. Id. at 435-37. In reaching this conclusion, the Supreme Court rejected a theory that absolute immunity extends to a non-judicial official simply because their function is intimately tied to the judicial process. Id. As the Supreme Court explained, the "'touchstone' for [the application of absolute immunity] ... has been 'performance of the function of resolving disputes between parties, or of authoritatively adjudicating private rights," and the extension of this doctrine to "officials other than judges ... [is proper] because their judgments are 'functionally comparable' to those of judges." Id. at 435-36 (first quoting **Burns v. Reed, 500 U.S. 478, 500, 111 S. Ct. 1934, 114 L. Ed. 2d 547 (1991)** (Scalia, J., concurring in judgment in part and dissenting in part), and then quoting **Imbler v. Pachtman, 424 U.S. 409, 423 n.20, 96 S. Ct. 984, 47 L. Ed. 2d 128 (1976)**). This is in tension with the Sixth Circuit's standard—set forth in published judicial decisions even after the Supreme Court's decision in Antoine—which extends the immunity to those whose actions are "intrinsically associated with a judicial proceeding." Bush, 38 F.3d 847. **Were this Court writing on a blank slate, it would find the test in Antoine governs**. But it is not. The

> Court is bound by the Sixth Circuit's test despite this conflict, and it may not depart from that rule of law. **In re Higgins, 159 B.R. 212, 215** (S.D. Ohio 1993). But see Stern, 2007 U.S. Dist. LEXIS 23793, 2007 WL 1023948, at *7 (applying the standard in Antoine **despite the binding subsequent contrary Sixth Circuit authority**).

The district court spoke clearly saying that it was "bound" by the rule of law in the 6th Circuits judgment in **Bush, 38 F.3d 847**, and that I could not assert my claims under the authority of this court because of their disagreement with this court. That alone would have allowed me to bring a claim in honor with the statute of 42 USCS §1983 for violation of the 1st and 14th Amendments by the proper parties. Whereby, the supremacy of the constitution is robbed, my rights are abridged, and our countries long standing authority is not afforded its due in the 6th Circuits definition of absolute quasi-judicial immunity in **Bush, 38 F.3d 847**, which was coincidentally passed one year after **Antoine v. Byers & Anderson, Inc., 508 U.S. 429, 113 S. Ct. 2167, 124 L. Ed. 2d 391 (1993)**

III. The Questions Raised in This Case Are Important and Unresolved

Rule 10 (c) governs the soul of this courts compelling interest to hear issues of this matter where an Appeals court enters a decision on an important federal question in a way that conflicts with relevant decisions of this court when it stated:

> Where a court of appeals has rendered a decision in conflict with the decision of another court of appeals on the same matter; or has decided an important state or territorial question in a way in conflict with applicable state or territorial law; or has decided an important question of federal law which has not been, but should be, settled by this court; or has decided a federal question in a way in conflict with applicable decisions of this court; or has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by a lower court, as to call for an exercise of this court's power of supervision. **(c)** a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, **or** has decided an important federal question in a way that conflicts with relevant decisions of this Court. FERGUSON v. MOORE-McCORMACK, 352 U.S. 521 at *532.

That is exactly what happened in **Bush, 38 F.3d 847**, one year after **Antoine v. Byers & Anderson, Inc., 508 U.S. 429, 113 S. Ct. 2167, 124 L. Ed. 2d 391 (1993)**. Normally when this court issues its decision on the application of constitutional elements and the Supreme Court's

current construction of Civil Rights Act of 1871 (42 USCS 1983); appeals courts don't issue opinions that remove the courts supervisory arm of jurisprudence, but the 6th Circuit has in this case. The prejudice produced by this deviation was felt by the District court justice who asserted the matter with his own judgment, by giving notice to the conflict between the 6th Circuit and this honorable court. The 6th circuit Court of Appeals erred in its jurisprudence in **Bush, 38 F.3d 847** by finding that even if a petitioner under a 42 USCS §1983 claim proved; that the personal acts of a clerk violated his 1st Amendment Rights to the United States Constitution were proven with evidence that they acted under color of law doing so, the clerk would be absolutely immune due to its entitlement to judicial immunity.

In Stern v. Felmet, 2007 U.S. Dist. LEXIS 23793 6th circuit District Judge of the Southern District of Ohio, Eastern Division Edmund A. Sargus, Jr. stepped beyond the arm of the 6th circuit to this courts jurisprudence when he ruled stating:

> As has been recognized elsewhere, however, the Supreme Court's unanimous opinion in **Antoine v. Byers & Anderson, Inc., 508 U.S. 429, 113 S. Ct. 2167, 124 L. Ed. 2d 391 (1993)** (holding court reporters entitled only to qualified immunity, not absolute immunity), casts doubt on such broad, arm-of-the-absolutely-immune-court analysis where clerks of court are concerned. See **Woodard v. Mennella, 861 F.Supp. 192, 196 (E.D.N.Y. 1994); Snyder v. Nolen, 380 F.3d 279, 286-89 (7th Cir. 2004)**; In reaching its Antoine decision, the Supreme Court explained:
>
> We are also unpersuaded by the contention that our "functional approach" to immunity, see **Burns V. Reed, 500 U.S. at 486, 111 S. Ct. at 1939**, requires that absolute immunity be extended to court reporters because they are "part of the judicial function," see 950 F.2d at 1476. The doctrine of judicial immunity is supported by a long-settled understanding that the independent and impartial exercise of judgment vital to the judiciary might be impaired by exposure to potential damages liability. Accordingly, **the "touchstone" for the doctrine's applicability has been "performance of the function of resolving disputes [*20] between parties, or of authoritatively adjudicating private rights." 500 U.S. at 500, 111 S. Ct. at 1946** (SCALIA, J., concurring in judgment in part and dissenting in part). When judicial immunity is extended to officials other than judges, it is because their judgments are "functional[ly] comparab[le]" to those of judges -- that is, because they, too, "exercise a discretionary judgment" as a part of their function. Imbler v. Pachtman, 424 U.S. at 423, n. 20, 96 S. Ct. at 991, n. 20. Cf. Westfall v. Erwin, 484 U.S. 292, 297-298, 108 S. Ct. 580, 584, 98 L. Ed. 2d 619 (1988)

(absolute immunity from state-law tort actions available to executive officials only when their conduct is discretionary). 508 U.S. 435-36 (footnote omitted) (emphasis supplied).

Upon consideration of Ohio Revised Code §§ 2939.12 and 2937.19 (referred to in footnote 8, above) together with § 2945.45 (providing for the clerk to issue criminal subpoenas to any county) and also Ohio Criminal Rule 17 providing further detailed procedures for issuance, service, and return of "[e]very subpoena issued by the clerk, [*21] " the Court concludes it is simply premature, in absence of developed facts, to finally determine whether these acts were "ministerial" rather than judicial. Snyder at 288. Having them performed may well be essential to the judicial process; however, as the Court further noted in rejecting that rationale for absolute immunity in Antoine, "As we explained in Forrester, some of the tasks performed by judges themselves, 'even though they may be essential to the very functioning of the courts, have not ... been regarded as judicial acts.' 484 U.S. at 228." 508 U.S., 437. Thus, although language in certain, particularly older, cases might suggest otherwise, it appears that quasi-judicial immunity does not operate to bar the claim against Defendant Corrigan based on his issuance of the subpoena as alleged in this case. That is so because such action required by statute in certain circumstances cannot reasonably be characterized as comparable to performing the (judicial) function "of resolving disputes between parties or of authoritatively adjudicating private rights," even though such action might be considered performance of a task integral to the judicial [*22] process as provided by Ohio law. Id. 437-38.

This court stated in **Ziglar v. Abbasi, 582 U.S. 120** that:

The qualified immunity rule seeks a proper balance between two competing interests. On one hand, damages suits may offer the only realistic avenue for vindication of constitutional guarantees. On the other hand, permitting damages suits against government officials can entail substantial social costs, including the risk that fear of personal monetary liability and harassing litigation will unduly inhibit officials in the discharge of their duties. As one means to accommodate these two objectives, judicial precedent holds that government officials are entitled to qualified immunity with respect to discretionary functions performed in their official capacities. The doctrine of qualified immunity gives officials breathing room to make reasonable but mistaken judgments about open legal questions. (Kennedy, J., joined by Roberts, Ch. J., and Thomas and Alito, JJ.; 6 participating Justices)

Yet Bush, 38 F.3d 847, the 6th circuit effectively created confusion and violated the 9th Amendment to the united states constitution when they removed the dichotomy of administrative actions purely ministerial and judicial actions. This court said that there is no clear list of what actions are judicial. This Court has never undertaken to articulate a precise and general definition of the class of acts entitled to immunity. The decided cases, however, suggest an intelligible distinction between judicial acts and the administrative, legislative, or executive functions that

judges may on occasion be assigned by law to perform. Administrative decisions, even though they may be essential to the very functioning of the courts, have not similarly been regarded as judicial acts. **In Ex parte Virginia, 100 U.S. 339 (1880)**, for example, this Court declined to extend immunity to a county judge who had been charged in a criminal indictment with discriminating on the basis of race in selecting trial jurors for the county's courts. The Court reasoned:

> HN4 "Whether the act done by him was judicial or not is to be determined by its character, and not by the character of the agent. Whether he was a county judge or not is of no importance. The duty of selecting jurors might as well have been committed to a private person as to one holding the office of a judge. . . . That the jurors are selected for a court makes no difference. So are court-criers, tipstaves, sheriffs, &c. Is their election or their appointment a judicial act?" Id., at 348.

Truly judicial acts, however, must be distinguished from the administrative, legislative, or executive functions that judges may occasionally be assigned by law to perform. It is the nature of the function performed adjudication rather than the identity of the actor who performed it a judge that determines whether absolute immunity attaches to the act. **Forrester v. White, 484 U.S. 219** and **Kalina v. Fletcher, 522 U.S. 118** this honorable court stood firm in its same jurisprudence it did above in **Antione 508 U.S. 429** and this court got it right in 1993 with its decision in Antione, and it should be restored to the 6th Circuit by removing the extra judicial deviation in the saying "Quasi-judicial immunity extends to those persons performing tasks so integral or intertwined with the judicial process that these persons are considered an arm of the judicial officer who is immune." At HN3 of **Bush, 38 F.3d 847**.

The crux of the issue is; state agents acting under color of law as "clerk deputies" refusing to file law suits in violation of the 1st Amendment being granted immunity for those acts creates a problem for the country and grants clerks power in violation of the 9th Amendment

"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people" which protects the nullification of constitutional rights

The clerks who unconstitutionally denied the filing of my law suit where acting in an administrative capacity when they discarded my lawsuit, and the decisions at issue, however, were not themselves judicial or adjudicative thusly not warranting absolute judicial immunity.

CONCLUSION

The judgment of **Bush, 38 F.3d 847** in the 6th circuit below is a unique departure from sound relevant and clear decisions of this Court that require judicial immunity extended to agents of judicial operations be applied according to the common law standard and perspective unanimously decided in **Antoine v. Byers & Anderson, Inc., 508 U.S. 429, 113 S. Ct. 2167, 124 L. Ed. 2d 391 (1993)**. This breach occurred specifically when the 6th circuit court stated "Quasi-judicial immunity extends to those persons performing tasks so integral or intertwined with the judicial process that these persons are considered an arm of the judicial officer who is immune." As such, it represents a breach in the wall erected by the First Amendment to the Constitution, and the decisions of this Court that were designed to protect a citizen from being injured without remedy via jurisprudence contrary to the established interpretations of immunity erected by this court unanimously.

This petition for a writ of certiorari should, therefore, be granted.

Dated:

Respectfully submitted,

Christopher-Michael Williams

Christopher-Michael:Williams Ohio prisoner, (#723739) in Propria Persona

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