

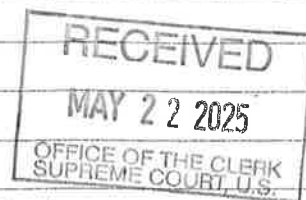
Supreme Court - Clerk of Court

April 14, 2025

BRAUN THOMPSON #09106-029
FCI MARION
PO BOX 2000
MARION, ILLINOIS 62959

RE:

Rule 30 (rule book page 41)
- Request For Time Extension
For Filing A Petition For A
Writ Of Certiorari



Clerk of Court,

The first concern is that I cannot address this to a specific Justice. A major component of my (intended) appeal is that I do not have access to the Main Law Library, required by law, in this institution, or any kind of federal law in general. I do not know who the Justices are, or which of them I would properly approach.

The request for the time extension basically involves the deliberate interference with my legal mail, both in-coming and out-going, including to and from the Supreme Court. On March 27, 2025 I filed an extensive complaint about this with the Office of Inspector General over their email "Hotline". I requested a full copy of this complaint be provided to your office but I do not know if you received such a copy. This type of interference has been substantiated and acted on in the past by both the District Court and the United States Attorney. Briefly, and sequentially, this is the situation:

On January 27, 2025 the Seventh Circuit denied my request for a rehearing on my appeal (No. 24-1495). I did not receive the notification until almost two weeks had past. It takes only a few days for mail to travel from the Seventh Circuit to this institution. I immediately filed a motion with the Seventh Circuit for instructions on filing a Petition For Writ of Certiorari as I had no information on such. [Your office has a copy of that request and the Seventh Circuit response as I sent you copies with my Feb. 27, 2025 request to you for information regarding a Writ of Certiorari.] I did not receive that response until over a week after it had been mailed. Both of the above described in-coming pieces of mail were delayed by staff for several days before being delivered to me. At this point a full thirty of my ninety allotted days had been used.

The Feb. 27, 2025 request to your office for Writ instructions was mailed by Unit Manager / Executive Assistant Byram on Monday March 3, 2025 and reached the Post Office on March 4, 2025. Casemanager Smilie had

photo copied that request, and then on Sunday March 2, 2025 I sent Byram an email "prisoner to staff" notifying her that I had out-bound legal mail requiring indigent stamps, and posting, March 3, 2025 I met with Byram, received the stamps and sealed the letter, and she then posted it. At this point I need to explain out-bound legal mail procedures for indigent prisoners.

[I prepare/complete the legal documentation to be sent, I then notify Byram by "Staff Email" that I need postage stamps, photocopying, and posting for out-bound legal mail. At this point in time I no longer have any control over the physical posting of that mail. Once I notify Byram it is up to staff scheduling/availability for photocopying, stamps, and physical posting (by staff) of that mail: I believe that the date I notify Byram of my need to send out legal mail meets the criteria of the "Prisoner Mailbox Rule". This is the standard, on-going procedure.]

Byram posted that request to your office on March 3 in the institutional mailbox, and it was delivered to the Post Office March 4. Because of the on-going, blatant interferences of my legal mail and the demands of due dates I keep a sharp eye on dates of mail. After waiting three weeks for a response from your office (well beyond a reasonable span of time) I contacted Casemanager Smillie about the situation. For several days he was on the WEB site for the Supreme Court as well as on the phone, and could find nothing out. Smillie was quite active in investigating the situation, particularly with Byram. I was also quite active, and vocal, and public, including about the criminal complaint I was filing with the Office of Inspector General's "HOTLINE" and my request that this institution's administration be notified about it. Said complaint was filed and publicized Thursday-Friday March 27-28.

The following Monday, March 31 I was suddenly called to the Mail Room to sign for incoming legal mail. I am attaching a photo copy of the face of the incoming envelope. Several points immediately become of interest:

- > The stamping of times/dates of processing in-coming legal mail show I received it March 31, 2025. It does not show who processed/delivering it to me.
- > It does not show when it was received from the US Postal Service.
- > It does not show who received it and when in the Mail Room.

- > It does show a postmark date of March 19, 2025
- > It does not take fifteen days for the Supreme Court to receive and process a request for instructions on a Writ of Certiorari (March 4 - March 19)
- > It does not take twelve days for mail from the Supreme Court to reach the institution and be delivered to the prisoner.
- > The absurdity of a simple request for information and response between an Illinois institution and Washington, DC taking a total of twenty-seven days (and then only after severe complaint) blatantly exposes the wrongful interference and delay of my legal mail by staff of this institution.
- > It has also created the reality that, by not receiving the instructions from the Supreme Court until March 31, 2025, rather than having ninety days to prepare and file a Petition For Writ of Certiorari, I was given only twenty-eight days.

I have made a very serious effort these past two weeks to try to make the April 27, 2025 deadline. There is simply no way I can do so while completing the full requirements of the Petition.

I am therefore requesting an extension of three weeks extra for filing the Petition, for what I believe is clear and appropriate cause.

There are several other points I should bring to your attention. My legal first name is quite unusual: "BRAUN" rather than "BRIAN". My return address is now "PO Box 2000" not "PO Box 1000". This is at the request of my Casemanager Smilie, who will directly receive my legal mail and directly deliver it to me, without delay or interference.

I cannot comply with a requirement for typing my filings, for both medical handicap and financial causes. I have no money at all for typing, and I literally cannot sit a normal chair for typing, or extend my arms for that length of time. I suffer from permanently compressed sciatic and perineal nerves on the lower left side (and permanent pain so I cannot sit normally), and I have severe degenerative bone disease in several vertebrae in my upper back, bone spur(s) between my spine and right shoulder blade, and intermittent pinched nerves running through both shoulders and arms. Sitting and typing is impossible.

What I must do is first compose in pencil (rather than ink) to avoid blotching and correct mistakes; and then photocopy the final results. In writing and filing the Petition for the writ it is my intention to use this same college-ruled paper, writing on every-other line in order to "double-space". I realize that it is my own responsibility to make sure everything is genuinely both legible and readable (not always the same thing). If I cannot meet that standard, I do not expect the Court to accept my paperwork. Also, when photocopying I will leave signature lines blank, and physically sign them in pen after photocopying.

I will be simultaneously mailing a full copy of this filing to the Solicitor General. I do not know when the actual physical date of posting will be, as I have explained. I have contacted Casemanager Smille by email with my need for photocopying and posting this missive, and was at his office today but he was not in. I will do so daily until I contact him.

Sincerely,

BRAUN THOMPSON

#09106-029

FBI MARION

P.O. Box 2000

MARION, IL

62959

DATE: April 14, 2025

SUPREME COURT OF THE UNITED STATES
WASHINGTON, D.C. 20543-0001

USP MARION
SPECIAL/LEGAL MAIL

DATE/TIME RECEIVED FROM USPS _____

DATE/TIME RECEIVED FROM MAIL ROOM _____

RECEIVED BY _____

DATE/TIME DELIVERED _____

DELIVERED BY _____

Reg # matches
BRAUN
Thompson.

Brian Thompson #09106-029
Federal Correctional Institution/Marion
P.O. Box 1000
Marion, IL 62959

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03/19/2025
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United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

January 27, 2025

Before

FRANK H. EASTERBROOK, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 24-1495

BRAUN THOMPSON,
Plaintiff-Appellant,

v.

UNITED STATES OF AMERICA,
Defendant-Appellee.

Appeal from the United States District
Court for the Southern District of Illinois.

No. 22-cv-59-NJR

Nancy J. Rosenstengel,
Chief Judge.

ORDER

Plaintiff-Appellant filed a petition for rehearing on January 17, 2025. All the judges on the panel have voted to deny rehearing. The petition for rehearing is therefore DENIED.

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals**For the Seventh Circuit****Chicago, Illinois 60604**

Submitted November 20, 2024*

Decided December 4, 2024

BeforeFRANK H. EASTERBROOK, *Circuit Judge*THOMAS L. KIRSCH II, *Circuit Judge*JOHN Z. LEE, *Circuit Judge*

No. 24-1495

BRAUN THOMPSON,
*Plaintiff-Appellant,**v.*UNITED STATES OF AMERICA,
*Defendant-Appellee.*Appeal from the United States District
Court for the Southern District of Illinois.

No. 22-cv-59-NJR

Nancy J. Rosenstengel,
*Chief Judge.***ORDER**

Braun Thompson, a prisoner at the Federal Correctional Institution at Marion, Illinois, sued the United States under the Federal Torts Claim Act, alleging that an employee of the Bureau of Prisons assaulted him. The district court entered summary

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

judgment against Thompson because the undisputed evidence showed that he did not exhaust administrative remedies before suing.

This suit arises out of an incident in January 2021. We describe the complaint's allegations without endorsing their accuracy. Thompson approached the secure housing unit at Marion and asked to stay there to avoid exposure to COVID-19, but a guard told Thompson to return to his cell. As Thompson turned to walk away, he said that he was going to sue the guard. In response, the guard "charged" at him and "force-march[ed]" him to his cell. Because Thompson was moved without his crutch, the march caused him serious pain and exacerbated his medical condition.

Thompson asserts that he wrote to the Department of Justice about these events. First, in January 2021, he emailed a hotline set up by the Department's Office of the Inspector General. In March and May, he mailed complaints to the Attorney General. A few months later, in January 2022, he filed this suit. Only afterward, in September 2022, did Thompson mail a letter to the Bureau of Prisons demanding damages and other relief. He also mailed a copy of that letter to the Attorney General.

Thompson invokes the Federal Tort Claims Act, 28 U.S.C. §§ 1346, 2671–80 (the "Act"). The government moved for summary judgment on the ground that Thompson did not submit notice of a tort claim to the Bureau before he sued and thus did not exhaust his administrative remedies as required under 28 U.S.C. § 2675. It submitted declarations stating that neither the Department nor the Bureau had received an administrative complaint from Thompson. It also furnished postal tracking data showing that Thompson's letters from March and May 2021 were never delivered and that Thompson did not properly address his post-suit letter to the Bureau.

Thompson contended that the court should excuse his failure to complain to the Bureau because Marion barred his access to legal books, and the prisoner's handbook was useless; thus, he could not learn what he needed to do. He acknowledged that the prison allows him access to computer-based legal research, but he asserted that he does not know how to use computers. He also argued that his mailings to the Department of Justice sufficed to put the government on notice of his claim.

The district court ruled that Thompson had not exhausted his administrative remedies in the manner required by § 2675 before he sued. It added that, although unavailability of administrative remedies may excuse a failure to exhaust claims subject to the Prison Litigation Reform Act, 42 U.S.C. § 1997e; *Ross v. Blake*, 578 U.S. 632, 642–44 (2016), the exception does not apply to claims under the Federal Tort Claims Act. The

court dismissed Thompson's claim without prejudice. We treat its dismissal as final because amendment could not cure the problem. Cf. *Crouch v. Brown*, 27 F.4th 1315, 1319 (7th Cir. 2022) (addressing exhaustion under 42 U.S.C. § 1997e).

On appeal, Thompson contends alternatively that he made sufficient efforts to exhaust his claim and that he is excused from exhausting because remedies were not "available." As to the first argument, Thompson's efforts did not properly exhaust his administrative remedies, and so the district court appropriately granted the government's motion for summary judgment. Under the Act, "[a]n action shall not be instituted upon a claim against the United States for money damages ... unless the claimant shall have first presented the claim to the appropriate Federal agency and his claim shall have been finally denied by the agency in writing." 28 U.S.C. § 2675(a); see *McNeil v. United States*, 508 U.S. 106, 111–13 (1993). The plaintiff must exhaust before filing suit, and, if he does not, the court must dismiss the case. *McNeil*, 508 U.S. at 113. Federal regulations spell out the steps a potential plaintiff must take before filing suit. 28 C.F.R. § 14.2(a); see *Chronis v. United States*, 932 F.3d 544, 546–47 (7th Cir. 2019).

Thompson did not follow the required procedures before "invocation of the judicial process," i.e., filing suit. *McNeil*, 508 U.S. at 113. Before suing he needed to file a notice of claim with the Bureau of Prisons' regional office. 28 C.F.R. §§ 14.2(b)(1), 543.31. But he communicated with the Bureau in September 2022, only after he sued the government. The only communications that preceded Thompson's suit were his email to the Department of Justice's hotline and his letters to the Attorney General. These efforts had no effect in terms of his exhaustion obligation. (Not only were they misdirected, but they did not contain the required information. See 28 C.F.R. § 14.2(a); *Chronis*, 932 F.3d at 547 (7th Cir. 2019).) Therefore, dismissal of the tort claim was mandatory.

McNeil teaches that Thompson's status as a prisoner without a lawyer does not relax the statutory exhaustion requirement. This effectively precludes his argument that he was prevented from exhausting because he lacked access to legal books and did not know how to use computer-based research. The Act says nothing about "availability" of remedies, but even if there were some equitable exception to its exhaustion requirement—something we do not decide—Thompson does little more than describe the hardship of litigating pro se, and the Supreme Court has told us that this does not excuse non-exhaustion. *McNeil*, 508 U.S. at 112–13. Nor does Thompson make a strong case that the government thwarted his ability to exhaust. He concedes that Marion provides prisoners with computers that can access the legal authorities that explain the

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exhaustion process, and, as this case progressed, he demonstrated his ability to make use of the available resources. He just fell short of doing so before filing his complaint.

Thompson presents several arguments about discovery and other procedural matters, but none is relevant given our conclusion that he filed suit too soon. Thompson also raises contentions that he did not present to the district court. He seeks a declaration that the Bureau violated what he calls his right to a print law library, and an injunction requiring the prison to establish a print library and provide him with counsel. These standalone claims were not before the district court; therefore, we will not consider them. *See Homoky v. Ogden*, 816 F.3d 448, 454–55 (7th Cir. 2016).

AFFIRMED