

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

IN THE SUPREME COURT OF THE UNITED STATES

LaTausha Simmons, Appellant-Petitioner

v.

City of Detroit, Michigan; Police Officer Donald Boone; and Police Officer Louis Swafford,  
Appellees-Respondents

Originating Case No. 24-1962 in the Sixth Circuit Court of Appeals

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**MOTION FOR EXTENSION OF TIME TO FILE PETITION FOR WRIT OF CERTIORARI**

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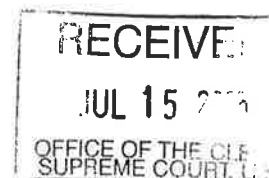
To the Honorable John Roberts, Chief Justice of the United States Supreme Court and Circuit Justice to the Sixth Circuit:

1. Appellant-Petitioner, LaTausha Simmons, proceeds *in forma pauperis* and pursuant to Rule 13(5), 22, 30, and 30.3 Rules of the Supreme Court, respectfully seeks and requests the maximum time of a ninety (90) day extension of time within which to file her petition for writ of certiorari in this Court from the denial of post-judgment by the Sixth Circuit Court of Appeals in case no. 24-1962. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1). This application is submitted more than ten (10) days prior to the scheduled filing date for the Petition. See S. Ct. R. 13.5. Petitioner, received no response from Appellees-Respondents on her request.



The pertinent dates are:

a: June 5, 2025, issuance of written order of the denial of motion for relief from judgment to reinstate a civil action involving violations of federal constitutional rights which included claims for excessive force, assault, battery, false arrest, false imprisonment, unlawful search and seizure, deprivation of due process rights, denial of assistance of counsel at arraignment, and the continuous ongoing malicious prosecution of Appellant-Petitioner since August 2018, in the state court in violation of the Fourth, Sixth and Fourteenth Amendments to the United States of America. A copy of the opinion is attached hereto as Exhibit A.



2. This is a complex case in which since August 2018, Appellant-Petitioner Simmons is continuously being maliciously prosecuted for the past seven (7) years, at this writing. For an offense wherein she was the actual victim of felonious assault. And police destroyed *Brady* exculpatory material of dashcam and vest cam video and audio of 911 calls made by Petitioner, and have had Petitioner repeatedly falsely arrested and falsely imprisoned in 2019 and 2024 in this same case.

3. Under the First Amendment to the United States Constitution, Petitioner Simmons, *Pro se and indigent* in 2019, sought redress and timely filed her Section 1983 lawsuit against the police officers and other state actors for the violations of her protected guaranteed federal constitutional rights. Petitioner had filed with her complaint her Notice Waiving Service by U.S. Marshal, however, the district court did not acknowledge her Notice.

4. Petitioner timely served her summons and complaint on the defendants, via personal service and defendants retaliated against her for her lawsuit and had her falsely arrested and falsely imprisoned. During the time in which proof of service of her complaint was required to be filed in the district court. As a result, Petitioner was unable to file such proofs of service and the district court twice dismissed her case, and denied her the opportunity to refile or reopen her case. Petitioner has produced proofs of service of her complaint to the district court, and that court erred when it refused to acknowledge them.

5. Further, the district court erred when it did not have the U.S. Marshal serve Petitioner's complaint, because, together Rule 4(c) and 28 U.S.C. 1915(c) stand for the proposition that when a plaintiff is proceeding *in forma pauperis* the court is obligated to issue plaintiff's process to a United States Marshal who must effectuate service upon the defendants, thereby relieving a plaintiff of the burden to serve process once reasonable steps have been taken to identify for the court the defendants named in the complaint. *See Graham v. Satkoski*, 51 F.3d 710, 712 (7<sup>th</sup> Cir. 1995) ((The marshals Service is required to serve process on behalf of individuals proceeding in forma pauperis.”) *Byrd v. Stone*, 94 F.3d 217, 219 (6<sup>th</sup> Cir. 1996).

6. As such, this is a denial of the right for a Pro se Plaintiff Simmons proceeding *in forma pauperis* to have her complaint served upon the defendants by the U.S. Marshal obligated by the district court to do; for her proofs of personal service to be accepted by the district court demonstrating timely service upon defendants; and the First Amendment retaliation against Petitioner by defendants after being served with her complaint via personal service, preventing her from prosecuting her case in the district court. Which are all Public Interests that Requires Expeditious Determination. Wherein, indigent individuals cannot not be denied due process and the right to seek redress in pursuing a Section 1983 action for the violations of their federal constitutional rights.

7. Petitioner must be afforded the opportunity to be heard on questions of: whether she served the defendants with her summons and complaint via personal service; whether the district court erred wherein it wrongfully dismissed and refused to reinstate her case upon evidence of proofs of service and excusable neglect; and whether under Rule 4(c) and 28 U.S.C. 1915(c) because Petitioner proceeded pro se and *in forma pauperis*, the district court was obligated to issue plaintiff's/petitioner's process to a United States Marshal, who must effectuate service upon the defendants, thereby relieving a plaintiff of the burden to serve process, therefore Petitioner's case never should have been dismissed for a failure to effectuate service of her complaint.

8. As such, this case also involves, the exceptional public importance, *i.e.* the deprivations of the right for *in forma pauperis* pro se plaintiffs to seek redress against the government with service of her complaint by U.S. Marshals; and also the deprivation of life, liberty, property, and the pursuit of happiness by law enforcement and other state actors under color of law, and deprivation of the right which are violations of the First, Fourth and Fourteenth Amendments to the U.S. Constitution.

9. Petitioner suffers from physical health concerns which causes delays and difficulties in drafting of her pleadings. Thus, she firmly believes these are compelling reasons to justify that an extension of time is warranted. And an extension of time will not cause prejudice to Respondents.

For the foregoing reasons, the Appellant-Petitioner, who is indigent, *in forma pauperis* respectfully prays that this Court grant an extension of a maximum of ninety (90) days and including December 5, 2025 or thereafter, within which to file her petition for writ of certiorari.

Respectfully submitted, this 30th day of June, 2025.



LaTausha Simmons  
20500 Dean St  
Detroit, Michigan 48234  
Phone N/A  
Email N/A

CERTIFICATE OF SERVICE

I, LaTausha Simmons, certify that I have this day served the foregoing Motion for Extension of Time by first-class mail, postage prepaid, addressed to opposing counsel of record for the City of Detroit Law Department, 2 Woodward Avenue, Suite 500, Detroit, MI 48226, on this 30th day of June 2025.

/s/LaTausha Simmons  
LaTausha Simmons

EXHIBIT A

No. 24-1962

**FILED**

Jun 5, 2025

LATAUSHA SIMMONS,

Plaintiff-Appellant,

v.

CITY OF DETROIT, MI, et al.,

Defendants,

OFFICER LOUIS SWAFFORD; OFFICER  
DONALD BOONE,

Defendants-Appellees.

ORDER

In 2019, Simmons sued the City of Detroit, Wayne County, and several of their agencies and officials, raising claims arising from her 2018 arrest and prosecution on charges of assault. Upon initial screening under 28 U.S.C. § 1915(e), the district court dismissed all of Simmons's claims except certain claims against two individual defendants. The court ordered Simmons to serve those two defendants within 90 days of its order and advised that failure to do so would result

in dismissal of the claims without prejudice. In September 2019, after Simmons failed to serve the defendants within the allotted time, the court dismissed her complaint without prejudice.

Three months later, Simmons moved to reopen the case and to extend the time for service, pursuant to Federal Rule of Civil Procedure 4(m). The district court denied the motion. Shortly after the district court denied the motion, Simmons again moved to reopen the case with a filing that was nearly identical to her first motion to reopen. Construing the filing as a motion for reconsideration, the district court denied the motion because it merely presented the same issues that the court had already considered.

In September 2024—nearly five years after the dismissal of the complaint and more than three years after the denial of her last post-judgment motion—Simmons filed a “Motion to Set Aside Order of Dismissal and Reinstate Case, Pursuant to Rule 59(e) to Correct a Clear Error of Law or to Prevent a Manifest Injustice.” She contended that the court erred by dismissing her case when she had timely served the defendants by personal service rather than service through the U.S. Marshals. Construing Simmons’s motion as having been filed pursuant to Federal Rule of Civil Procedure 60(b) because it was filed beyond the 28-day period for filing a Rule 59(e) motion, the district court denied the motion as untimely. Simmons now appeals.

Because Simmons’s motion was not timely under Rule 59(e), the district court correctly construed it as a Rule 60(b) motion for relief from judgment. *See Feathers v. Chevron U.S.A., Inc.*, 141 F.3d 264, 268 (6th Cir. 1998). When reviewing the denial of a Rule 60(b) motion, we do not review the underlying judgment; instead, our “review is limited to whether the district court abused its discretion in denying the Rule 60(b) motion.” *Yeschick v. Mineta*, 675 F.3d 622, 628 (6th Cir. 2012). “A district court abuses its discretion when it relies on erroneous findings of fact, applies the wrong legal standard, misapplies the correct legal standard when reaching a conclusion, or makes a clear error of judgment.” *Tanner v. Yukins*, 776 F.3d 434, 442 (6th Cir. 2015) (quoting *Randleman v. Fid. Nat’l Title Ins.*, 646 F.3d 347, 351 (6th Cir. 2011)).

Rule 60(b) provides several reasons for which relief from a final judgment or order may be granted: “(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered

evidence . . . ; (3) fraud . . . , misrepresentation, or misconduct by an opposing party; (4) the judgment is void; (5) the judgment has been satisfied, released or discharged . . . ; or (6) any other reason that justifies relief.” Fed. R. Civ. P. 60(b). Relief under subsection (6) “requires a showing of exceptional or extraordinary circumstances.” *East Brooks Books, Inc. v. City of Memphis*, 633 F.3d 459, 465 (6th Cir. 2011). A Rule 60(b) motion filed under subsections (1), (2), or (3) must be brought within one year of the entry date of the challenged judgment, while a motion filed under subsection (6) “must be made within a reasonable time.” Fed. R. Civ. P. 60(c)(1).

In her motion, Simmons argued that good cause existed for her failure to serve the defendants through the U.S. Marshals Service. She asserted that, after she personally served the defendants, the defendants retaliated against her “through illegal and unlawful incarceration,” that prevented her from serving the defendants or communicating with the court. She asserted that she had “firmly established ‘good cause[,]’ ‘excusable neglect[,]’ and equitable tolling in support of her motions, warranting setting aside the dismissal and reinstating of the case.”

Simmons’s argument is best construed as having been raised pursuant to Rule 60(b)(1), which allows for relief from judgment upon a showing of excusable neglect. But such motions must be brought within one year of the judgment. Fed. R. Civ. P. 60(c)(1). Because Simmons’s motion was filed nearly five years after the district court’s judgment, the motion was untimely.

To the extent Simmons sought relief under Rule 60(b)(6), the district court did not abuse its discretion by denying the motion. A five-year delay between judgment and the filing of a Rule 60(b)(6) motion generally does not satisfy the “reasonable time” requirement of Rule 60(c)(1). *See Gen. Med., P.C. v. Horizon/CMS Health Care Corp.*, 475 F. App’x 65, 75–76 (6th Cir. 2012) (collecting cases). Moreover, Simmons did not explain the lengthy delay and instead simply reiterated her reasons for failing to properly serve the defendants. “Rule 60(b) does not allow a defeated litigant a second chance to convince the court to rule in his or her favor by presenting new explanations, legal theories, or proof.” *Tyler v. Anderson*, 749 F.3d 499, 509 (6th Cir. 2014). The district court did not abuse its discretion by denying Simmons’s motion.



No. 24-1962

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For these reasons, we **AFFIRM** the district court's order.

ENTERED BY ORDER OF THE COURT

  
\_\_\_\_\_  
Kelly L. Stephens, Clerk

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

**FILED**  
Jun 5, 2025  
KELLY L. STEPHENS, Clerk

No. 24-1962

LATAUSHA SIMMONS,

Plaintiff-Appellant,

v.

CITY OF DETROIT, MI, et al.,

Defendants,

OFFICER LOUIS SWAFFORD; OFFICER  
DONALD BOONE,

Defendants-Appellees.

Before: GILMAN, GRIFFIN, and THAPAR, Circuit Judges.

**JUDGMENT**

*On Appeal from the United States District Court  
for the Eastern District of Michigan at Detroit.*

THIS CAUSE was heard on the record from the district court and was submitted on the briefs without oral argument.

IN CONSIDERATION THEREOF, it is ORDERED that the order of the district court is AFFIRMED.

**ENTERED BY ORDER OF THE COURT**

  
\_\_\_\_\_  
Kelly L. Stephens, Clerk

**United States Court of Appeals for the Sixth Circuit**

**U.S. Mail Notice of Docket Activity**

The following transaction was filed on 06/05/2025.

**Case Name:** Latausha Simmons v. Louis Swafford, et al

**Case Number:** 24-1962

**Docket Text:**

ORDER filed: We AFFIRM the district court's order. Mandate to issue, pursuant to FRAP 34(a)(2)(C), decision not for publication. Ronald Lee Gilman, Circuit Judge; Richard Allen Griffin, Circuit Judge and Amul R. Thapar, Circuit Judge.

**The following documents(s) are associated with this transaction:**

Document Description: Order

**Notice will be sent to:**

Ms. Latausha Simmons  
20500 Dean Street  
Detroit, MI 48234

**A copy of this notice will be issued to:**

Ms. Kinikia D. Essix