

No. 17-6598

IN THE
SUPREME COURT OF THE UNITED STATES

Teresa Miller — PETITIONER
(Your Name)

United States District Court For Southern District
United States Federal Court For Fourth Circuit — RESPONDENT(S)
2nd Supplemental Brief for Writ of Certiorari

United States District Court for Fourth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

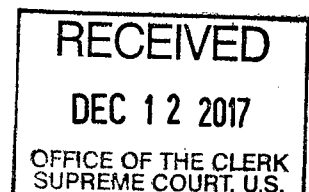
PETITION FOR WRIT OF CERTIORARI

Teresa Miller
(Your Name)

P.O. Box 111
(Address)

Morgantown WJ 26507
(City, State, Zip Code)

304-435-5940
(Phone Number)



&.

Questions

1. Why is The federal court in dating review of my cases calling the mood before they even get a chance to be heard? Examples enclosed.
2. Why am I not been granted a transfer or a change of venue when asking for one on cases filed in the court? Examples enclosed
3. Why were two judges I had previously been dismissed from cases before disqualification do the prejudice again reassigned to another case just to have it dismissed as moot?examples enclosed

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CONSTITUTIONAL AND

STATUTORY PROVISIONS INVOLVED

- 2017 Federal Rules of Civil Procedure
- Rule 38 – Right to a Jury Trial; Demand
- RULE. 21. Transfer of trial
- 28 U.S. Code § 1332 - Diversity of citizenship; amount in controversy; cost
- 8 th admendmant to the U.S. Constitution,
- 42 U.S. Code, Section 1983, and the Prison Litigation Reform Act.
- Federal Rules of Appellate Procedure Rule 4. Appeal as of Right—When Taken?

OTHER

3.3 Mootness

Updated 2016 by Jeffrey S. Gutman

- 1.
See Friends of the Earth v. Laidlaw Environmental Services, Incorporated, 528 U.S. 167, 180 (2000).
- 2.
Id. at 190.
- 3.
Arizonans for Official English v. Arizona, 520 U.S. 43, 68 n.23 (1997).
- 4.
Id.
- 5.
Buckhannon Board and Care Home, Incorporated v. West Virginia Department of Health and Human Resources, 532 U.S. 598, 608-10 (2001), discussed in Chapter 9 of this MANUAL. See also Gill Deford, The Prevailing Winds After Buckhannon, 36 Clearinghouse Rev. 313 (Sept.-Oct. 2002).
- 6.
In Chafin v. Chafin, 133 S. Ct. 1017 (2013), the Supreme Court discussed mootness at length in a complex child abduction case and held that the dispute between the parents was not moot because issues regarding the custody of the child remained unresolved. The Court noted that the prospects of success of the suit were irrelevant to the mootness question, and uncertainty about the effectiveness and enforceability of any future order did not moot the case. Chafin, 133 S. Ct. at 1024-26. A case is moot, however, when the court cannot give any “effectual” relief to the party seeking it. See Knox v. Service Employees International Union, Local 1000, 132 S. Ct. 2277, 2287 (2012); Church of

Scientology of California v. United States, 506 U.S. 9, 12 (1992); Firefighter's Local 1784 v. Stotts, 467 U.S. 561, 571 (1984); see also Tory v. Cochran, 544 U.S. 734, 736-37 (2005) (death of attorney Johnnie Cochran did not moot injunction enjoining plaintiff from defaming Cochran). A case can, of course, become moot when the plaintiff has abandoned their claims, but such abandonment must be unequivocal. Pacific Bell Telephone Company v. Linkline Communications, 555 U.S. 438, 446 (2009).

- 7.
See, e.g., In re Burrell, 415 F.3d 994, 998 (9th Cir. 2005).
- 8.
Board of Pardons v. Allen, 482 U.S. 369, 370 n.1 (1987), illustrates the use of a damage claim to avoid mootness. Prisoners who were denied parole without a statement of reasons challenged the denial. They claimed that the state statute mandating release under certain circumstances created a liberty interest in eligibility for parole protected by the Fourteenth Amendment. Plaintiffs sought damages as well as declaratory and injunctive relief. Although plaintiffs were later released, mooting their individual claims for injunctive relief, their damage claims remained alive. Because the immunity of defendants was not settled, the Supreme Court reached the merits, holding that plaintiffs had a cognizable liberty interest in the processing of their parole applications. The Court remanded the case for further proceedings. See also City of Richmond v. J.A. Croson Company, 488 U.S. 469, 478 n.1 (1989). An inability to pay a damages judgment at present does not moot a claim. See United States v. Behrman, 235 F.3d 1049, 1053 (7th Cir. 2000). However, if the judgment seemingly could never be paid, a claim might be dismissed on prudential grounds. See, e.g., Federal Deposit Insurance Corporation v. Kooyomjian, 220 F.3d 10, 14-15 (1st Cir. 2000).
- 13.
Litigation challenging discontinued practices or policies that continue to produce collateral harm is not moot. See, e.g., Reno v. Bossier Parish School Board, 528 U.S. 320, 327 (2000) (challenge to redistricting plan following election is not moot because prior plan represents baseline for evaluating future challenges); Firefighters Local Union No. 1784 v. Stotts, 467 U.S. 561, 568-72 (1984) (city's challenge to injunction prohibiting layoffs based on seniority system not mooted by recall of laid-off employees when injunction would require city to ignore seniority rights in future layoffs and would affect its ability to recruit new employees by precluding it from offering protection of layoff by seniority); Jago v. Van Curen, 454 U.S. 14, 21 n.3 (1981) (challenge to procedures leading to rescission of forthcoming parole not mooted by later release on parole when later release subject to restrictions not contemplated by original grant of parole); Youakim v. Miller, 425 U.S. 231, 236 n.2 (1976) (challenge to reduction in benefits for foster children related to foster parents not mooted by increase in benefits when effect is to discourage acceptance of other family members awaiting placement); Super Tire Engineering Company v. McCorkle, 416 U.S. 115, 127 (1974) (challenge to rule denying Aid to Families with Dependent Children benefits to strikers not mooted by settlement of strike when rule affects every labor dispute and collective bargaining agreement).

- 14.
United States v. W.T. Grant Company, 345 U.S. 629, 633 (1953); see also Friends of the Earth v. Laidlaw Environmental Services, Incorporated, 528 U.S. 167, 189, 193 (2000) (quoting and citing United States v. Concentrate Phosphate Export Association, 393 U.S. 199, 203 (1968)) (“A case might become moot if subsequent events made it absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur.”); Adarand Constructors v. Slater, 528 U.S. 216, 222 (2000) (burden of showing non-recurrence lies with party asserting mootness).
- 15.
 A different issue arises when a third party voluntarily discontinues conduct that is the focus of the litigation. In Iron Arrow Honor Society v. Heckler, 464 U.S. 67 (1983), the secretary of the U.S. Department of Health, Education, and Welfare informed the University of Miami that the university had violated Title IX by permitting a student organization that barred women from membership to conduct its initiation ceremony on campus. The organization sued the secretary to enjoin further enforcement of the interpretation of Title IX. During the litigation, the university informed the organization that, irrespective of the outcome of the litigation, the organization would not be permitted to return to campus until the organization stopped discriminating. Because the university’s action effectively superseded the secretary’s action, the Supreme Court held the challenge to the secretary’s interpretation of Title IX moot, reasoning that the interpretation no longer could affect the organization. The Court did not decide whether the W.T. Grant standard applied to the voluntary acts of third parties; the Court reasoned that, even if it did, the public statement of the university president banning the organization from campus established that the controversy between the organization and the Department of Health, Education, and Welfare was unlikely ever to recur.
- 16.
Friends of the Earth, 528 U.S. at 193-94.
- 17.
City of Erie v. Pap’s A.M., 529 U.S. 277, 287-88 (2000).
- 18.
 Compare City News and Novelty Incorporated v. City of Waukesha, 531 U.S. 278, 284 (2001) (unsuccessful challenge to city licensing ordinance is moot when adult-oriented business decided not to renew license).
- 19.
 For a recent case touching on this factor, see Camreta v. Greene, 131 S. Ct. 2020, 2033-35 (2011).
- 20.
 Compare Sheely v. MRI Radiology Network, 505 F.3d 1173, 1187 (11th Cir. 2007) (defendant’s failure to admit to wrongdoing suggests that cessation was driven by desire to avoid liability) and DeJohn v. Temple University, 537 F.3d 301, 309 (3rd Cir. 2008) (challenge to sexual harassment policy not moot when policy changed well into litigation and university continued to defend it) with Larsen v. U. S. Navy, 525 F.3d 1, 4 (D.C. Cir. 2008) (challenge to quota

policy for chaplains moot when plaintiffs did not allege that replaced policy would be reinstated) and Wisconsin Right to Life, Incorporated v. Schober, 366 F.3d 485, 491-92 (7th Cir. 2004) (accepting assertions of state election board that it would not enforce a campaign finance law found unconstitutional, but not struck from the state code); 13A Charles A. Wright et al., *Federal Practice and Procedure* § 3533.7 at 353 (2d ed. 1984).

- 21.
See Wernsing v. Thompson, 423 F.3d 732, 745 (7th Cir. 2005) (plaintiff did not show need for injunctive relief against prior restraint policy when new supervisor disclaimed the policy as only that of her predecessor), cert. denied, 547 U.S. 1004 (2006).
- 22.
See United States v. W.T. Grant Company, 345 U.S. 629, 632 (1953); Desiderio v. National Association of Securities Dealers, 191 F.3d 198, 201-02 (2d Cir. 1999).
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- 28.
City of Mesquite v. Aladdin's Castle Incorporated, 455 U.S. 283, 288-89 (1982).
- 29.
See Pederson v. Louisiana State University, 213 F.3d 858, 874-75 (5th Cir. 2000); Norman-Bloodsaw v. Lawrence Berkeley Laboratories, 135 F.3d 1260, 1274-75 (9th Cir. 1998); American Iron and Steel Institute v. Environmental Protection Agency, 115 F.3d 979, 1006-07 (D.C. Cir. 1997).
- 30.
Spencer v. Kemna, 523 U.S. 1, 17 (1996); Murphy v. Hunt, 455 U.S. 478, 482 (1982).
- 36.
Federal Energy Commission v. Wisconsin Right to Life, 551 U.S. 449, 463 (2007) (referring to both formulations); see Buckley v. Archer-Daniels-Midland Company, 111 F.3d 524, 527-28 (7th Cir. 1997) (applying various standards of the possibility of recurrence, such as "reasonable expectation," "demonstrated probability," and not "highly unlikely").
- 37.
City of Los Angeles v. Lyons, 461 U.S. 95(1983); Buckley, 111 F.3d at 527-28 ("demonstrated possibility" required) (quoting Board of Education v. Steven L., 89 F.3d 464, 468 (7th Cir. 1996)).
- 38.
Lyons, 461 U.S. at 109; see also Murphy v. Hunt, 455 U.S. 478, 482 (1982) (per curiam) (challenge to state constitutional provision denying pretrial release in sexual assault case mooted by conviction; no probability that plaintiff will again be arrested and detained pending trial); Weinstein v. Bradford, 423 U.S. 147, 149 (1975) (per curiam) (challenge to procedures governing release on parole mooted

by unconditional release; no probability that plaintiff will again be affected by procedures).

- 39.
Honig v. Doe, 484 U.S. 305, 305 (1988).
- 40.
Id. at 320.
- 41.
Id. at 319 n.6. In Kingdomware, the plaintiff's "reasonable likelihood" of being awarded future government contracts if its interpretation of particular procurement statute prevails was sufficient to establish that the dispute was capable of repetition. Kingdomware, 136 S. Ct. at 1976. See Alvarez v. Smith, 130 S. Ct. 576, 581 (2009) (that plaintiffs will "likely" not be subject to challenged state procedures again moots challenge to them).
- 42.
See Olmstead v. L.C., 527 U.S. 581, 594 n.6 (1999) (action to require treatment for disabilities not moot even after plaintiffs were placed in requested programs because they had many institutional placements in the past)

- Case law

Americans United for Separation of Church and State v. Prison Fellowship Ministries, 509 F.3d 406, 420-421 (8th Cir. 2007);

Potter v. Norwest Mortgage, Inc., 329 F.3d 608, 611 (8th Cir. 2003).

Spencer v. Kemna, 523 U.S. 1, 118 S.Ct. 978, 140 L.Ed.2d 43 (1998)

St. Pierre v. United States, 319 U.S. 41, 63 S.Ct. 910, 87 L.Ed. 1199 (1943)

Sibron v. New York, 392 U.S. 40 at 52, 88 S.Ct. 1889, 20 L.Ed.2d 917 (1968),

Fiswick v. United States, 329 U.S. 211, 67 S.Ct. 224, 91 L.Ed. 196 (1946)

Ginsburg v. State of New York, 390 U.S. 629, 633, 99 S.Ct. 1274, 1277, 20 L.Ed.2d 195, n. 2 (1968)

United States v. Morgan, 346 U.S. 502, 74 S.Ct 247, 98 L.Ed. 248 (1954)

Pollard v. United States, 352 U.S. 354, 77 S.Ct 481, 1 L.Ed.2d 393 (1957),

Parker v. Ellis, 362 U.S. 574, 577, 80 S.Ct 909, 911, 4 L.Ed.2d 963 (1960)

Peyton v. Rowe, 391 U.S. 54, 64, 88 S.Ct. 1549, 20 L.Ed.2d 426 (1968)

Port v. Heard, 764 F.2d 423 (1985).

Spencer v. Kemna, 523 U.S. 1, 118 S.Ct. 978, 140 L.Ed.2d 43 (1998)

Lane v. Williams, 455 U.S. 624, 102 S.Ct. 1322, 71 L.Ed.2d 508 (1982)

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Statement of case

I have included a recent case that I found in the federal court and my supplemental brief it shows that the federal court is it waiting review of my cases and dismissing them before they even go to trial after asking for transfer of cases due to prejudice and change venues I had previously been granted and other cases filed these new cases were then assigned to the same judges that the cases had already been transferred one due to disqualification for prejudiced.

1. I originally filed and JS 44 civil coversheet and the information pertaining with it on October 31, 2017.
2. I received a notice of the fish and pleading stating I had to fill out a Bevins act on October 31, 2017.
3. That is a prisoner complaint form I am not a prisoner as I called and informed them I was told to fill out that information packet anyways.
4. After filling it out and sending it in they sent me a Nother complaint a civil complaint for a non-prisoner because I realize that I was not a prisoner.
5. I thought of a motion for transfer to another district or circuit due to prejudiced on October 31, 2017.
6. About a motion for a jury trial on October 31, 2017.
7. I filed a motion for change of venue
8. I received orders dismissing my case because I filed a Bevins act 4803 US three 88 1971. On November 29, 2017 case number 2:17 CV 137
9. I received a notice of dismissal on November 30, 2017 case number 2:17 CV 132 because I filed a Bevins at 403 US 388 1971
10. These were packets that the federal court sent to me and instructed me to fill out even though I try to explain to them I am not a prisoner on mailing address does not go to a present for Sillinti and they know by the postage on it that I was a regular citizen it was sent in FedEx
11. On December 4, 2017 I sent in a notice of appeal on dismissal to file and en banc under federal appellate procedure 35, federal rules of appellate procedure ,rule three and four, federal rules of appellate procedure rule 40 petition for panel rehearing rule 3008 ,39 of the federal rules of civil procedure
12. After calling and asking and they receive my filing in bank for rehearing of my case I was informed that the case would then be sent to the fourth circuit without anyone bothering to rehear my case and I would have to file there I do not understand why I would not be granted a chance for my try to go to court at the federal level and how they can deny an appeal and just forward it to the Fourth Circuit

Reasons to grant &

I would like to add this to my supplement brief it says further discrimination from the federal court. I had just filed this case and had not received the documents when I filed the first supplemental brief. These are further examples of discrimination against me but they evading review of any of my cases by deciding them as moot so they do not have to award any damages to me that was originally caused by the state and state facilities. I do not understand what the state and the federal government are trying to cover up by not hearing a case or transferring it out of the district that it has originally been filed in. This denying me my right to it they are tribunal. But this is an original one they sent me the wrong packet to fill out one purpose after I originally found the right one just so they could decide my case is moot so they wouldn't have to review it.

This supplemental brief is presented in good faith and not in delay.

The grounds for this additional Supplemental Brief are limited to intervening circumstances of a substantial or controlling effect or to other Substantial grounds not previously presented.

CONCLUSION

The petition for a writ of certiorari should be granted.

Jessie Miller
12-7-17

Respectfully submitted,

Jessie Miller

Date: 12- -17

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Teresa Miller

DEFENDANTS

United States District
Court Southern District
United District Court Fourth Circuit
United States

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

Monongalia Co

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

(c) Attorneys (Firm Name, Address, and Telephone Number)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff☒ 3 Federal Question
(U.S. Government Not a Party)☐ 2 U.S. Government Defendant☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State

PTF ☒ 1DEF ☒ 1Incorporated or Principal Place
of Business In This StatePTF ☐ 4 DEF ☐ 4

Citizen of Another State

☐ 2☐ 2Incorporated and Principal Place
of Business In Another State☐ 5 ☐ 5Citizen or Subject of a
Foreign Country☐ 3☐ 3

Foreign Nation

☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Medical Malpractice	PERSONAL INJURY ☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Management Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Employee Retirement Income Security Act	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 840 Trademark SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g))	☐ 375 False Claims Act ☐ 376-Qui Tam (31 USC 3729(a)) ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities/Exchange ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☐ 895 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision ☐ 950 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☒ 440 Other Civil Rights ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 448 Education	PRISONER PETITIONS Habeas Corpus: ☐ 463 Alien Detainee ☐ 510 Motions to Vacate Sentence ☐ 530 General ☐ 535 Death Penalty Other: ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 560 Civil Detainee - Conditions of Confinement	IMMIGRATION ☐ 462 Naturalization Application ☐ 465 Other Immigration Actions	FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	

V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original
☐ 2 Remanded from
☐ 3 Remanded from
☐ 4 Remanded from
☐ 5 Remanded from
☐ 6 Remanded from
☐ 7 Remanded from
☐ 8 Remanded from

APP 1

211 100 152

APP 2

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
ELKINS

Teresa Miller

Plaintiff

Case No.: 2:17-cv-00132

v.

United States District Court for the Southern District of West
Virginia, et al

Defendant

**NOTICE OF DEFICIENT PLEADING
AND INTENT TO DISMISS**

The pleading is not on a court-approved form. Therefore, the Clerk is giving notice as follows:

- The Pleading will be stricken from the docket within thirty (30) days from the date of this notice.
LR PL P 3.4.7
- This action will be dismissed without prejudice within thirty (30) days from the date of this notice.
LR Civ P 41.01
- If Petitioner wishes to pursue this action, he must file on the **ATTACHED CORRECT FORMS**
per Local Rules of Prisoner Litigation Procedure 3.4★★

If Petitioner RE-FILES on the correct forms, a new civil action number will be given to that filing.

★★WARNING!

**FAILURE TO COMPLETE AND SUBMIT EACH OF THE CORRECT AND
REQUIRED FORMS IN THEIR ENTIRETY COULD RESULT IN DELAYS IN
YOUR CASE OR YOUR COMPLAINT COULD BE DISMISSED!**

**WHEN REFILING WITH CORRECT COMPLAINT/PETITION FORM, MERELY
STATING ON THE FORM "SEE ORIGINAL COMPLAINT" OR "SEE
ORIGINAL PETITION" OR ATTACHING THE ORIGINAL COMPLAINT/
PETITION AS AN EXHIBIT IS NOT SUFFICIENT.**

Dated: 10/31/17 22

Enclosures

Cheryl Dean Riley
Clerk of Court

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
ELKINS DIVISION**

Teresa Miller

Plaintiff,

vs.

Civil Case No.

2:17-cv-00137

**United States District Court for the Southern
District of West Virginia, et al**

Defendant.

**Notice of General Guidelines for Appearing Pro Se¹
In Federal Court**

**The above styled action has been assigned to the United States District Judge Bailey
and United States Magistrate Judge Seibert.**

Listed below are some guidelines that are relevant to your case:

- ▶ **Current Address:** Keep the Court and opposing counsel, if any, advised of your most current address **at all times**. Failure to do so may result in your action being dismissed without prejudice.
- ▶ **Contacting the Court:** Do not send letters or documents directly to the judge(s) assigned to your case. All contact with the Court must be in writing and sent to the following address:

U.S. District Court
P.O. Box 1518
Elkins, WV 26241
- ▶ **Sending Documents to the Court:** When filing documents with the Court, **always** file the original plus two copies of each one with the Clerk's Office (use the address noted above).

¹ Pro Se means acting as your own attorney.

- ▶ **Sending Documents to the Respondent:** If the respondent has responded in the case, you are **required** to send a copy of any documents you send to the Court to his or her counsel. You let the Court know that you've done this by completing a certificate of service and attaching it to the original of the document and all copies before you send them to the Court and to the respondent. (sample certificate attached)
- ▶ **Legal Advice:** The District Judges, Magistrate Judges, Pro Se Law Clerk and the Clerk's Office cannot provide you with legal advice. They can provide you with the proper forms to file civil actions and advise you as to the status of your case. For example, if you write in and ask "What is happening in my case?" The Clerk can advise you that it is still before the magistrate, or it is now before the district judge. The Clerk cannot answer questions such as "Should I file a motion for appointment of counsel?" or similar questions. You have to decide those questions on your own. If you have any questions, please contact the Clerk's Office (use the address noted above).
- ▶ **Rules:** Your case is subject to the Federal Rules of Civil Procedure and the Local Rules of the Northern District of West Virginia. For prisoners, a copy of each of these should be located at your institution for your use. If not, please contact us at the address above and we will contact the institution to ensure that it has a copy of those rules to provide for your use.
- ▶ **Pro Se Packet:** Pro se filers, other than prisoners, should request a Pro Se packet from the Court.
- ▶ **E-Government Act:** The E-Government Act of 2002 prohibits litigants from including personal data identifiers in court filings. The Act specifically applies to the following personal data identifiers:
 - (1) **Social Security Numbers:** use only the last four digits of that number.
 - (2) **Names of Minor Children:** use only the child's initials.
 - (3) **Dates of Birth:** use only the year.
 - (4) **Financial Account Numbers:** use only the last four digits of these numbers.
 - (5) **Home Address in Criminal Cases:** include only the city and state.

If you must include any information that violates this guidance, file a redacted copy with the Court pursuant to LR Gen P 5.08. The responsibility for redacting these personal identifiers rests solely with the filer. The Clerk will not review each filing for compliance with the E-Government Act or with LR Gen P 5.08.

AT THE DIRECTION OF THE COURT
Cheryl Dean Riley, Clerk of Court

By: **N. Zombek**

Deputy Clerk

v.

Civil Action No.:

I, (your name here), appearing pro se, hereby certify that I have served the foregoing (title of document being sent) upon the defendant/respondent by depositing true copies of the same in the United States mail, postage prepaid, upon the following counsel of record for the defendant/respondent on (insert date here):

(List name and address of counsel for defendant/respondent)

(sign your name)

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

v.

Case Number: _____

**NOTICE OF CHANGE OF ADDRESS AND/OR CONTACT INFORMATION FOR
PRO SE LITIGANTS**

(Note: You must keep your contact information (address and phone number) current with the Court. The Court and opposing counsel will send orders, correspondence, motions, pleadings, notices, etc., to the last address filed with the Court in writing. Please file a separate Notice of Change of Address form for each case in which you are involved.)

I hereby notify the Court that my address has changed as follows:

Your name: _____

Old Address: _____

New address: _____

My current telephone number is: _____

I hereby request that copies of any future orders, correspondence, motions, pleadings, notices, etc., be provided to me at this new address.

I will notify the Clerk of Court in writing by filing a new Notice form if my address or telephone number changes.

Date: _____

Signature _____

APP6

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
ELKINS

TERESA MILLER,

Plaintiff,

v.

CIVIL ACTION NO. 2:17-CV-137
(BAILEY)

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF
WEST VIRGINIA, and
UNITED STATES DISTRICT COURT
FOR THE FOURTH CIRCUIT,

Defendants.

ORDER OF DISMISSAL

This civil action was filed on November 21, 2017, by Teresa Miller, acting *pro se* [Doc. 1]. For the reasons stated below, the Complaint [Doc. 1] is **DISMISSED**.

"[A] court has an obligation to inquire *sua sponte* into its subject matter jurisdiction, and to proceed no further if such jurisdiction is wanting." *In re Rectical Foam Corp.*, 859 F.2d 1000, 1002 (1st Cir. 1988); Fed. R. Civ. P. 12(h)(3) ("If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action."). Here, the allegations in the Complaint fail to provide this Court with subject matter jurisdiction.

Plaintiff's Complaint is brought pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), which established a direct cause of action under the United States Constitution against federal officials for the violation of constitutional rights. *Id.* at 397; see also *Holly v. Scott*, 434 F.3d 287, 289 (4th Cir. 2006). However, under the doctrine of sovereign immunity, the United States, its departments,

and its agencies cannot be sued without its express consent. *FDIC v. Meyer*, 510 U.S. 471, 475 (1994); *United States v. Mitchell*, 463 U.S. 206, 212 (1983); *Global Mail Ltd. v. United States Postal Serv.*, 142 F.3d 208, 210 (4th Cir. 1998) (federal governmental entity entitled to sovereign immunity unless Congress waives that immunity and consents to suit).

Here, plaintiff has named as the sole defendants the United States District Court for the Southern District of West Virginia and the "United States District Court for the Fourth Circuit," assuredly intending the United States Court of Appeals for the Fourth Circuit. The United States has not consented to such suits. *FDIC*, 510 U.S. at 484–86 (declining to extend *Bivens* to permit suit against a federal agency). "Sovereign immunity is jurisdictional in nature." *Id.* at 475; see also *Global Mail Ltd.*, 142 F.3d at 210 ("Sovereign immunity deprives a court of jurisdiction to hear a case."). Thus, because the United States has not waived its sovereign immunity, this Court lacks subject matter jurisdiction over plaintiff's Complaint.

To the extent plaintiff intended to assert a constitutional claim against any individual judges of either court, it is well settled that judges have absolute immunity from a claim for damages arising out of their judicial actions. *Mireless v. Waco*, 502 U.S. 9, 12 (1991); *Pierson v. Ray*, 386 U.S. 547, 553–54 (1967) ("Few doctrines were more solidly established at common law than the immunity of judges from liability for damages for acts committed within their judicial jurisdiction."). The purpose of the doctrine of judicial immunity is to "protect judicial independence by insulating judges from vexatious actions prosecuted by disgruntled litigants," *Forrester v. White*, 484 U.S. 219, 225 (1988)—which

is seemingly the case here. As a result, "judges of courts of superior or general jurisdiction are not liable to civil actions for their judicial acts, even when such acts are in excess of their jurisdiction, and are alleged to have been done maliciously or corruptly." *Stump v. Sparkman*, 435 U.S. 349, 356 (1978) (internal citation and quotation omitted). In any event, if plaintiff is dissatisfied with an adverse ruling from the defendants, the proper recourse is to file an appeal.

Accordingly, it is **ORDERED** that this civil action be, and the same is hereby, **DISMISSED WITHOUT PREJUDICE** for want of subject matter jurisdiction, pursuant to Rule 12(h)(3) of the Federal Rules of Civil Procedure, and retired from the active docket of this Court. It is further **ORDERED** that all pending motions in this case [Docs. 3-5] are hereby **DENIED AS MOOT**.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record herein and to mail a copy to the *pro se* plaintiff.

DATED: November 29, 2017.


JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE

APP 7

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

TERESA MILLER,

Plaintiff,

v.

Civil Action No. 2:17cv132
(Judge Bailey)

UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF
WEST VIRGINIA, and
UNITED STATES DISTRICT COURT
FOR THE FOURTH CIRCUIT,

Defendants.

ORDER DISMISSING CASE

On October 31, 2017, the *pro se* plaintiff, Teresa Miller, (hereinafter plaintiff), filed this civil rights complaint pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971). On that same date, the Clerk of Court issued the plaintiff a Notice of Deficient Pleading and Intent to Dismiss. The Notice informed the plaintiff that the instant action would be dismissed within 30 days of the Notice and further informed the plaintiff that if she wished to pursue her claims, she would be required to re-file her Complaint on the Court-approved form which was sent to her with the Notification. The Clerk of Court mistakenly sent the plaintiff the forms required to be filed by an incarcerated person. Therefore, on November 14, 2017, the Clerk of Court sent the plaintiff the appropriate forms for a non-prisoner.

On November 21, 2017, the plaintiff refiled both sets of forms, and the Clerk of Court opened Civil Action No. 2:17cv137. Accordingly, pursuant to the terms of the Notification, and for the further reasons set forth in the Order entered on November 29, 2017, dismissing that case, it is hereby **ORDERED** that his action be **DISMISSED**. It is also **ORDERED** that the Plaintiff's Motion to Proceed *in forma pauperis* [Doc. 2] be **DENIED AS MOOT**.

The Clerk is **DIRECTED** to mail a copy of this Order to plaintiff by certified mail, return receipt requested, to her last known address as reflected on the docket sheet.

DATED: September 30, 2017.

A handwritten signature in black ink, appearing to read "John Preston Bailey", written over a horizontal line.

JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE

APP8

In the United States court for the northern district of West Virginia Elkins division

Teresa Miller

V. Civil Num
2:16cv132
And
2:16cv137

United States district court for the southern division of West Virginia

United States federal court for the Fourth circuit

Notice of appeal on dismissal to file en banc

Now comes the petitioner Teresa Miller pro se to appeal the desision to dismiss and to rehear her case en banc

Federal Rule of Appellate Procecedure 35

Under

Federal Rules of Appellate Procedure

Rule 3 and 4

Federal Rules of Appellate Procedure

Rule 40. Petition for Panel Rehearing

Rule 3008, Rule 59 F.R.Civ.P.

Due to the fact that she file a motion for transfer and a motion for change of venue due to prejudice and disqualification of judges previously in that district. And that her case was filed against the federal court for the fourth circuit,

Thus making it impossible for her case to be reviewed and damages be awarded to her.

She originally filed a civil suit on a JS44 civil cover sheet and was then sent a notice of deficient pleading and a 403 us388 10971. October 31 2017 When the petitioner was not a prisoner. After stating this to their office she was sent a second packet and the approximate forms for non prisoner complaint for violation of civil rights 11-14-17. And I was not filing a complaint for violation of civil rights I was filing a civil suit on from JS44 civil cover sheet against them for evading review of my case and for damages done to me they refuse to take my filing and sent different complaint forms to be filed out so they could dismiss. Which they apparently did not bother to look at in case 2:17cv132 or case 2:17cv137.

Under Federal Rules of Appellate Procedure Rule 40. Petition for Panel Rehearing

I ask yet again to transfer my case to another circuit based on prejudice due to the fact of the defendants filed against as in motion sent in originally with the civil cover sheet JS44. And change of venue also sent in on case 2:17cv132 and 2:17cv137.

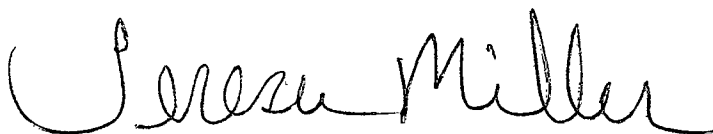
They have yet again decided to evade review of my filings by deciding my cases as moot instead of transferring to another district as stated in office of the United States attorneys 42. change of venue by deciding to state case as moot and not transfer to another district for a ruling.

Why am I unable to receive a fair tribunal and not have my case transferred before a decision to dismiss is entered.

Now comes the petitioner Teresa Miller pro se and ask that the honorable court grant the motion to appeal , motion to appeal en banc .

Respectfully submitted

December 4 2017

A handwritten signature in black ink, appearing to read "Teresa Miller". The signature is fluid and cursive, with the first name "Teresa" written in a larger, more prominent script than the last name "Miller".

Teresa Miller

APP 9

IN THE UNITED STATES DISTRICT COURT for the SOUTHERN DISTRICT
of WEST VIRGINIA

Teresa Miller
Petitioner

V. Civil Action Num 2:17cv137
United States District Court Southern District
United States District Court Fourth Circuit

MOTION FOR CHANGE OF VENUE

Now comes the petitioner Teresa Miller pro se to ask the honorable court to transfer her case to another circuit. Because of cases filed against the courts and state and district and circuit the petitioner currently resides in. And due to the fact the petitioner has had previous cases transferred from one district to another that she already had US Supreme Court Cases filed against the State District and Circuit because the judges were disqualified from presiding in the cases.

28 U.S. Code § 1404 - Change of venue

RULE. 21. Transfer of trial

28 U.S. Code § 1332 - Diversity of citizenship; amount in controversy; cost

The following are the facts supporting motion for change of venue.

I have two cases filed in the US Supreme Court
Docket number 17-5849
Supreme Court of Appeals of West Virginia
Circuit court of Monongalia county
Judge Phillip d Gaujot
Judge Summers
William Pennington
DeAndra Burton
Ashley Hunt
Micheal Palmer
United States District Court for the Northern District
United States Court of Appeals for the Fourth circuit

Docket. Number 17-6598
United States District Court for Southern District
United States District court for the Fourth circuit

I have had one case transferred from the United States district court for the northern district of West Virginia

Civil action number 2:16cv50 renamed 2:17-cv-04130

For conflict of interest judges disqualified from presiding see attached transfer order

I have had a second case transferred in the United States district court for the northern district of West Virginia clarksburg

Civil action number 1:17-cv-128

Renamed

2:17-cv-03951

Because the judges were disqualified from presiding see the attached orders

Now comes the petitioner Teresa Miller pro se And asks the honorable court to grant the above said motion for change of venue due to the circumstances and previous cases that were removed from one district to another due to the fact of conflict of interest.

Respectfully. Submitted

December 3 2017

Teresa Miller

Po bx. 111

Morgantown Wv 26507

APP 10

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA

TERESA MILLER,

Plaintiff,

v.

Civil Action No. 1:16cv82
(Judge Keeley)

ATTORNEY GENERAL STATES OF WEST VIRGINIA;
MRS. BIRD SONG; MR. MEED OR MEEK;
LAKIN CORRECTIONAL CENTER, MAIL ROOM;
LAKIN CORRECTIONAL CENTER, UNIT TEAM;
DR. BRYCON, Physician,

Defendants.

TRANSFER ORDER

On May 5, 2016, the *pro se* Plaintiff filed this civil rights action pursuant to 42 U.S.C. § 1983. The complaint concern events at Lakin Correctional Center which is situated in Mason County, West Virginia. Mason County is located within the jurisdiction of the United States District Court for the Southern District of West Virginia. Accordingly, it is hereby **ORDERED** that this matter be transferred to the United States District Court for the Southern District of West Virginia. In so doing, the court is not making any determination on the merits of the Plaintiff's claims.

The Clerk is directed to transfer the case file in this matter to the Southern District of West Virginia. The Plaintiff is hereby notified that this matter will be given a new civil case number and will be assigned to a district judge in the Southern District. The Plaintiff is further directed to send any additional correspondence or filings in this matter to the address that will be provided by the Southern District.

The Clerk is directed to mail a copy of this Order to the Plaintiff by certified mail, return receipt requested, to her last known address as reflected on the docket sheet.

IT IS SO ORDERED.

APP 11

APP 12

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

TERESA MILLER,

Plaintiff,

v.

// CIVIL ACTION NO. 1:17CV128
(Judge Keeley)

JUDGE PHILLIP GAUJOT,
Monongalia County Circuit Court Judge;
STEVEN FITZ;
EDWARD ROLLO;
MICHAEL PENNINGTON;
DeANDRA BURTON;
ASHLEY HUNT;
MICHAEL PAMER;
ROBERT W. TRUMBLE,
United States District Court; and
WEST VIRGINIA SUPREME COURT OF APPEALS,

Defendants.

ORDER VACATING ORDER OF REFERRAL [DKT. NO. 4]

On July 25, 2017, the Court referred this case to the Honorable Michael J. Aloia, United States Magistrate Judge (Dkt. No. 4). After being advised of a conflict in the case, the Court VACATES its Order of Referral.

The Court DIRECTS the Clerk to transmit copies of this Order Vacating Order of Referral to counsel of record and to the Honorable Michael J. Aloia, United States Magistrate Judge.

DATED: August 2, 2017.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE

Sept 8-
2:17-CV-03951

APP 12

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
CLARKSBURG

TERESA MILLER,

Plaintiff,

v.

CIVIL ACTION NO.: 1:17-CV-128
(JUDGE KEELEY)

JUDGE PHILLIP GAUJOT,
Monongalia County Circuit Court Judge;
STEVEN FITZ; EDWARD ROLLO;
MICHAEL PENNINGTON; DeANDRA BURTON;
ASHLEY HUNT; MICHAEL PAMER;
ROBERT W. TRUMBLE, United States District Court;
WEST VIRGINIA SUPREME COURT OF APPEALS,
CIRCUIT COURT OF MONONGALIA COUNTY;
JUDGE SUMMERS; WILLIAM PENNINGTON;
UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA; and
UNITED STATES COURT OF APPEALS FOR
THE FOURTH CIRCUIT;

Defendants.

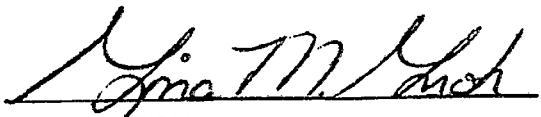
304
347
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Case
2:17-cv-0395
Charleston WV
Po. Bx 2546
25329

ORDER TRANSFERRING CASE

It has come to the attention of this Court that a conflict of interest exists in the above-styled matter. Upon consideration, and pursuant to 28 U.S.C. § 455, the undersigned finds that the Judges within this District are disqualified from presiding over this case. Accordingly, in light of the conflict and in fairness to the parties, it is **ORDERED** that this case is hereby **TRANSFERRED** to the Southern District of West Virginia.

The Clerk is **DIRECTED** to transmit copies of this Order to all counsel of record and *pro se* parties.

DATED: September 5, 2017


GINA M. GROH
CHIEF UNITED STATES DISTRICT JUDGE

APP 13

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA

TERESA MILLER,

Plaintiff,

v.

Civil Action No. 2:16cv50
(Judge Bailey)

2:17-CV-0413C

~~2:17-CV-03951~~

JUDGE PHILLIP D GAUJOT;
EDMUND ROLLO; STEPHEN
FITIZ; MS. DeCHRISTOPHER;
LEISA REIDMAN/BARRETT;
LANCE KURTZA; WEST VIRGINIA
PAROLE BOARD,

Defendants.

9/15
Motion
to transfer

TRANSFER ORDER

On June 17, 2016, the *pro se* plaintiff, Teresa Miller, filed this civil rights complaint pursuant to 42 U.S.C. § 1983. Currently pending is the plaintiff's motion to transfer pursuant to 28 U.S.C. § 455. The Court notes that a case filed by the plaintiff on July 21, 2017, was transferred to the United States District Court for the Southern District of West Virginia upon a finding that a conflict of interest existed in that case.

Upon consideration of her Motion, and in light of the history of proceedings in this District involving the plaintiff, the undersigned finds that the Judges within this District are disqualified from presiding over this case. Accordingly, in light of the conflict and in fairness to the parties, it is ORDERED that the Plaintiff's Motion [Doc. 32] be GRANTED and this case is hereby TRANSFERRED to the Southern District of West Virginia.

The Clerk is DIRECTED to mail a copy of this Order to the plaintiff by certified mail, return receipt requested, to her last known address as reflected on the docket

sheet.

DATED: October 6, 2017.


JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE

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