

25-6015

Case No. _____

In the
Supreme Court of the United States

TIMOTHY MARCUS MAYBERRY,
Petitioner,

v.

ARAMARK, *et al.*,
Respondents.

On Petition for *Writ of Certiorari* to
the Court of Appeals of Indiana

ORIGINAL

FILED

SEP 18 2025

OFFICE OF THE CLERK
SUPREME COURT, U.S.

VERIFIED PETITION FOR *WRIT OF CERTIORARI*

TIMOTHY MARCUS MAYBERRY
c/o 1 Park Row
Michigan City, Indiana 46360

QUESTIONS PRESENTED

- I. Whether the Court of Appeals of Indiana denies a litigant due process, in violation of the Fourteenth Amendment, when it selects a singular appellate-issue, then summarily disposes of the other appellate-issues simply because the selected appellate-issue is dispositive?
- II. Whether the Court of Appeals of Indiana treats *pro se* appellants unequally, in violation of the Equal Protection Clause of the Fourteenth Amendment, when it applies the appellate rules more rigidly against them?

PARTIES

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this Petition is as follows:

TIMOTHY MARCUS MAYBERRY, *in pro per*, Petitioner: c/o 1 Park Row; Michigan City, Indiana 46360.

Indiana Attorney General, Counsel for INDIANA DEPARTMENT OF CORRECTION (“IDOC”), Respondent: 302 West Washington Street, IGCS-5th Floor; Indianapolis, Indiana 46204.

Christopher D. Cody, Counsel for ARAMARK, Respondent: 54 Monument Circle, 4th Floor; Indianapolis, Indiana 46204.

RELATED CASES

- Mayberry v. Aramark, et al., Cause No. 52D01-2203-SC-000119, Miami Superior Court, Indiana. Judgment entered on April 25, 2024.
- Mayberry v. Aramark, et al., 258 N.E.3d 259, Court of Appeals of Indiana. Unpublished Memorandum Decision entered March 13, 2025; rehearing denied April 9, 2025; transfer denied July 15, 2025).

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OPINIONS BELOW

The opinion of the highest state court declining discretionary review appears at Appendix D to the petition and is reported at Mayberry v. Aramark, et al., 2025 Ind. LEXIS 409 (Jul. 15, 2025).

The opinion of the Court of Appeals of Indiana appears at Appendix A to the petition and is reported at Mayberry v. Aramark, et al., 258 N.E.3d 259 (mem.) (Ind. Ct. App. Mar. 13, 2025), reh'g denied, trans. denied; its order denying rehearing appears at Appendix B to the petition.

The decision of the Miami Superior Court that was the subject of review by the Court of Appeals of Indiana appears at Appendix C and is unpublished.

JURISDICTION

Jurisdiction is conferred to this Court pursuant to 28 U.S.C. § 1257(a) because, the highest court in the State of Indiana denied transfer on July 15th, 2025. A copy of that decision appears at Appendix D. In accordance with Supreme Court Rule 13(1), this petition was timely-filed on September 18th, 2025.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Constitution, Fourteenth Amendment: “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws.”

STATEMENT OF THE CASE

On May 24th, 2024, I appealed the trial court’s April 25th, 2024, judgment against me. On appeal I argued that the trial court erred in granting judgment for IDOC and Aramark. While on

appeal, after I timely filed my Appellant's Brief, IDOC and Aramark missed their deadline to file respective Appellee's Brief by more than three weeks. It was not until after the clerk of the Court of Appeals of Indiana withheld my fully-briefed appeal for three weeks and contacted the Attorney General's office, that IDOC and Aramark took action to file respective Appellee's Briefs—IDOC passed along the clerk's message to Aramark because the clerk did not similarly contact Aramark. The appellate court ultimately reversed judgment against me, in part, with respect to Aramark. The appellate court reasoned that because it reversed judgment on one issue, it need not address my other issue, and consequently ignored it.

I timely sought rehearing on the premise that the clerk's conduct implicated the Due Process Clause of the Fourteenth Amendment, by not equally applying the Indiana Rules of Appellate Procedure to Aramark and IDOC in the same rigid-fashion that they are (and were) applied to me. On April 9th, 2025, my petition for rehearing was denied. I timely sought transfer to the Indiana Supreme Court on the same premise and that the appellate court denied me a full and fair appeal by not addressing my issue pertaining to the clerk's bias treatment of *pro se* litigants and unequal application of the appellate rules. On July 15th, 2025, my petition to transfer was denied. On July 28th, 2025, I filed this petition.

REASONS FOR GRANTING THE WRIT

As demonstrated by the record, Indiana's reviewing courts have a practice of disposing of appeals based on a singular dispositive issue of their choosing, regardless of the merit of the other issues raised in a respective appeal. *See State ex rel. Meade v. Marion Superior Court*, 242 Ind. 22 (Ind. 1961) (quoted citations omitted); *Ft. Wayne Patrolman's Benevolent Assn. v. Ft. Wayne*, 411 N.E.2d 630, 631 (Ind. Ct. App. 1980) (quoted citations omitted), reh'g denied. This violates state litigants' secured right to one appeal under state law. *See* Ind. Const. art. 7, § 6.

Article 7, § 6 of the Indiana Constitution guarantees the “absolute right to one appeal”, not one issue. Further, this practice is underinclusive because the appellate courts unequally, and selectively choose when to address multiple appellate issues. *See e.g., Jackson v. Wrigley*, 921 N.E.2d 508, 513 (Ind. Ct. App. 2010) (addressing multiple issues because the court found them relevant to future proceedings). My issue concerning the clerk, similarly, was relevant to future proceedings and how I would be received or treated on future appeals.

In any event, such a practice permits only some appellants to receive plenary-review of all of their issues; *pro se* prisoners tend not to be one of them. *United States v. Falk*, 479 F.2d 616, 618 (7th Cir. 1973) (“The promise of equal protection of the laws is not limited to the enactment of fair and impartial legislation, but necessarily extends to the application of these laws.” (quoting *Yick Wo v. Hopkins*, 118 U.S. 356, 373-74 (1886))).

At the same time, regarding the unequal application of the appellate rules, after Aramark and IDOC (both represented by counsel) missed their briefing-deadline by over a month—which ordinarily results in summary dismissal for *pro se* prisoners—the clerk called counsel for IDOC (the Indiana Attorney General) cautioned him of his negligence, then withheld my fully-briefed appeal from appellate review to buy IDOC time to file a motion for leave to file a belated brief. That is not how *pro se* prisoners have been treated when they have missed deadlines. *id.* Because the appellate rules are enforced with an iron fist against *pro se* prisoners and circumvented or treated as suggestion for attorneys, this too violates the Equal Protection Clause of the Fourteenth Amendment. *id.*

CONCLUSION

For the reasons set forth above, I respectfully request the Court to grant this Petition and decide whether Indiana’s selective-review appeals process violates the Due Process Clause, and

if its selective enforcement of the appellate rules violate the Equal Protection Clause, and all other relief it deems just.

VERIFICATION¹

I, TIMOTHY MARCUS MAYBERRY, an adult competent to testify and based on my own personal knowledge, and information and belief, hereby affirm, under the penalties for perjury, that the foregoing representations are true and correct to the best of my knowledge and belief.

"9.18.25"
Executed date

by: MAYSON-EL
TIMOTHY MARCUS MAYBERRY

Respectfully submitted,

by: MAYSON-EL
TIMOTHY MARCUS MAYBERRY
Petitioner, *in pro per*
c/o 1 Park Row
Michigan City, Indiana 46360

¹ See Ford v. Wilson, 90 F.3d 245, 246 (7th Cir. 1996) ("By declaring under penalty of perjury that [this document is] true, and by signing it, [I] converted [this document], or rather those factual assertions in [this document] that complied with the requirements for affidavits specified in the rule . . . into an affidavit." (internal citations and quotation marks omitted)), cert. denied; Fed. R. Civ. P. 11(b); 28 U.S.C. § 1746.