

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

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**SUPREME COURT OF THE UNITED STATES**

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Carl NATHANiel Merkle

*Petitioner,*

vs.

Johnny W. Thomas, (a sham) Chapter 7 US Trustee, et al

*Respondent.*

---

On Petition for a Writ of Certiorari to  
the United States Court of Appeals  
for the Fifth Circuit

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**APPENDIX A TO  
PETITION FOR WRIT OF CERTIORARI**

FIFTH CIRCUIT AMBIGUOUS "AFFIRMED" ORDER OF JULY 24, 2025.

IS UNCLEAR WHETHER DISTRICT COURT DKT 14 OR DKT 38 ORDER IS  
THE AFFIRMED ORDER. THERE'S NO BASIS UNDER CITED RULES TO  
AFFIRM DKT 38. THERE IS BASIS TO RE-AFFIRM DKT 14.  
DKT 14 WAS AFFIRMED IN SCOTUS 24-6088.

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

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No. 25-50062  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

July 24, 2025

Lyle W. Cayce  
Clerk

IN THE MATTER OF CARL N. MERKLE,

*Debtor,*

CARL N. MERKLE,

*Appellant,*

*versus*

JOHNNY W. THOMAS, CHAPTER 7 TRUSTEE

*Appellee,*

---

Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 5:21-CV-1278

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Before JOLLY, GRAVES, and OLDHAM, *Circuit Judges*.

PER CURIAM:\*

Affirmed. *See* 5TH CIR. R. 47.6.

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\* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

*United States Court of Appeals*

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE,  
Suite 115  
NEW ORLEANS, LA 70130

July 24, 2025

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

Regarding: Fifth Circuit Statement on Petitions for Rehearing  
or Rehearing En Banc

No. 25-50062 Merkle v. Thomas  
USDC No. 5:21-CV-1278

Enclosed is a copy of the court's decision. The court has entered judgment under Fed. R. App. P. 36. (However, the opinion may yet contain typographical or printing errors which are subject to correction.)

Fed. R. App. P. 39 through 41, and Fed. R. App. P. 39, 40, and 41 govern costs, rehearings, and mandates. **Fed. R. App. P. 40 require you to attach to your petition for panel rehearing or rehearing en banc an unmarked copy of the court's opinion or order.** Please read carefully the Internal Operating Procedures (IOP's) following Fed. R. App. P. 40 for a discussion of when a rehearing may be appropriate, the legal standards applied and sanctions which may be imposed if you make a nonmeritorious petition for rehearing en banc.

Direct Criminal Appeals. Fed. R. App. P. 41 provides that a motion for a stay of mandate under Fed. R. App. P. 41 will not be granted simply upon request. The petition must set forth good cause for a stay or clearly demonstrate that a substantial question will be presented to the Supreme Court. Otherwise, this court may deny the motion and issue the mandate immediately.

Pro Se Cases. If you were unsuccessful in the district court and/or on appeal, and are considering filing a petition for certiorari in the United States Supreme Court, you do not need to file a motion for stay of mandate under Fed. R. App. P. 41. The issuance of the mandate does not affect the time, or your right, to file with the Supreme Court.

Court Appointed Counsel. Court appointed counsel is responsible for filing petition(s) for rehearing(s) (panel and/or en banc) and writ(s) of certiorari to the U.S. Supreme Court, unless relieved of your obligation by court order. If it is your intention to file a motion to withdraw as counsel, you should notify your client promptly, **and advise them of the time limits for filing for rehearing and certiorari.** Additionally, you MUST confirm that this information was given to your client, within the body of your motion to withdraw as counsel.

Sincerely,

LYLE W. CAYCE, Clerk



By:

Casey A. Sullivan, Deputy Clerk

Enclosure(s)

Carl N. Merkle  
Johnny W. Thomas

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

United States Court of Appeals  
Fifth Circuit

**FILED**

July 24, 2025

Lyle W. Cayce  
Clerk

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No. 25-50062  
Summary Calendar

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IN THE MATTER OF CARL N. MERKLE,

*Debtor,*

CARL N. MERKLE,

*Appellant,*

*versus*

JOHNNY W. THOMAS, CHAPTER 7 TRUSTEE

*Appellee,*

---

Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 5:21-CV-1278

---

Before JOLLY, GRAVES, and OLDHAM, *Circuit Judges*.

**J U D G M E N T**

This cause was considered on the record on appeal and the brief on file.

IT IS ORDERED and ADJUDGED that the judgment of the District Court is AFFIRMED.

The judgment or mandate of this court shall issue 7 days after the time to file a petition for rehearing expires, or 7 days after entry of an order denying a timely petition for panel rehearing, petition for rehearing en banc, or motion for stay of mandate, whichever is later. See Fed. R. App. P. 41(b). The court may shorten or extend the time by order. See 5th Cir. R. 41 I.O.P.

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

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**SUPREME COURT OF THE UNITED STATES**

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Carl NATHANiel Merkle

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*Respondent.*

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On Petition for a Writ of Certiorari to  
the United States Court of Appeals  
for the Fifth Circuit

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**APPENDIX B TO  
PETITION FOR WRIT OF CERTIORARI**

DISTRICT COURT DKT 14 ORDER OF APRIL 14, 2022.

BOTH THE ORIGINAL ORDER AND AFFIRMED ORDER.

DKT 14 WAS AFFIRMED IN SCOTUS 24-6088.

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

IN RE:

CARL N. MERKLE,

Bankruptcy Case No. 16-50026-CAG

*Debtor.*

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CARL N. MERKLE,

*Appellant,*

v.

Case No. SA-21-CV-1278-JKP

JOHNNY W. THOMAS,

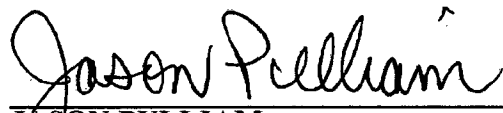
(Appeal from Order in  
Bankruptcy Case No. 16-50026-CAG)

*Appellee.*

**FINAL JUDGMENT**

The Court has considered the filings in this appeal and rendered its decision. For the reasons stated in the Order of Dismissal issued contemporaneously with this Final Judgment, the Court **DISMISSES** this appeal pursuant to Fed. R. Bankr. P. 8003(a)(2) and the prefiling injunctions that have been imposed against Appellant Carl N. Merkle. The Court finds that dismissal is appropriate under the circumstances. The appeal is now **TERMINATED** on the active docket of this Court.

**IT IS SO ORDERED this 11th day of April 2022.**

  
\_\_\_\_\_  
**JASON PULLIAM**  
**UNITED STATES DISTRICT JUDGE**



Case 5:21-cv-01278-JKP Document 14 Filed 04/11/22 Page 1 of 1

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

IN RE:

CARL N. MERKLE,

Bankruptcy Case No. 16-50026-CAG

*Debtor.*

CARL N. MERKLE,

*Appellant,*

v.

Case No. SA-21-CV-1278-JKP

JOHNNY W. THOMAS,

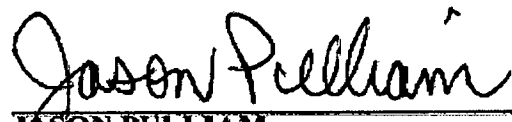
(Appeal from Order in  
Bankruptcy Case No. 16-50026-CAG)

*Appellee.*

**FINAL JUDGMENT**

The Court has considered the filings in this appeal and rendered its decision. For the reasons stated in the Order of Dismissal issued contemporaneously with this Final Judgment, the Court **DISMISSES** this appeal pursuant to Fed. R. Bankr. P. 8003(a)(2) and the prefiling injunctions that have been imposed against Appellant Carl N. Merkle. The Court finds that dismissal appropriate under the circumstances. The appeal is now **TERMINATED** on the active docket of this Court.

**IT IS SO ORDERED** this 11th day of April 2022.

  
JASON PULLIAM  
UNITED STATES DISTRICT JUDGE

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

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**SUPREME COURT OF THE UNITED STATES**

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Carl NATHANiel Merkle

*Petitioner,*

vs.

Johnny W. Thomas, (a sham) Chapter 7 US Trustee, et al

*Respondent.*

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On Petition for a Writ of Certiorari to  
the United States Court of Appeals  
for the Fifth Circuit

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**APPENDIX C TO  
PETITION FOR WRIT OF CERTIORARI**

DISTRICT COURT DKT 38 SANCTIONS ORDER OF  
JANUARY 14, 2022.

ORDER CONCEALS ALLEGATIONS OF CRIME. IS A  
CONTINUATION OF "GRAGG'S SCAM WITH GAG PLOT" THE  
SUBJECT OF 5thC APPEALS CASES 23-50692 AND 25-60062.  
AND BECAUSE THERE IS NO BASIS IN TRUE FACT AND  
TRUE LAW FOR THIS ORDER, IN SUBSTANCE, IT IS AN  
AGGRAVATED ROBBERY OF \$1,000 FROM A SENIOR  
CITIZEN, A MATTER THAT MUST BE HEARD IN A COURT  
OF LAW, IN A TRIAL BY JURY. (SEE DRAFT STATE COURT  
LAWSUIT COVER ON PAGE 30 OF 40 OF PETITION. A  
DRAFT DATED JULY 4, 2025, THE 249TH ANNIVERSARY OF  
USA.)

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

IN RE:

CARL N. MERKLE,

Bankruptcy Case No. 16-50026-CAG

*Debtor.*

---

CARL N. MERKLE,

*Appellant,*

v.

Case No. SA-21-CV-1278-JKP

JOHNNY W. THOMAS,

(Appeal from Order in  
Bankruptcy Case No. 16-50026-CAG)

*Appellee.*

**ORDER DENYING  
MOTION AND IMPOSING SANCTIONS**

Almost three years after this Court dismissed this appeal and issued a Final Judgment, the pro se Appellant Carl N. Merkle (“Merkle”) has again filed a “Motion for Leave to File a Notice Regarding Sanctions and a Motion to Remove All Sanctions” (ECF No. 37). The filing consists of a fifty-five-page main document, a fifty-five-page Exhibit 1, a seven-page Exhibit 2, and a twelve-page Exhibit 3.

On April 11, 2022, the Court dismissed this bankruptcy appeal because Merkle had not complied with a previously imposed prefiling injunction entered against him. *See* ECF No. 13. It summarized numerous known sanction warnings by three judges of the Western District of Texas in five cases. *Id.* at 3. It recognized a prefiling injunction imposed against Merkle. *Id.* at 3-4. That injunction imposes two restrictions – one on filing any new civil lawsuit absent leave of court through specified procedures and one on accepting any new filings in three specified cases. *See id.* This Court further recognized an update to that injunction to enjoin Merkle from filing (1) any pleadings or motions (except for a motion for leave) without obtaining leave of court and (2) any

appellant brief or motion (except for a motion for leave) in any bankruptcy appeal in the United States District Court for the Western District of Texas. *Id.* at 4. This updated injunction also requires that any motion for leave must demonstrate that Merkle has a good-faith, non-frivolous basis for seeking the relief requested by the proposed filing. *Id.*

The Court found no basis for it to grant Merkle leave to file an appellate brief in this case and dismissed the appeal pursuant to Fed. R. Bankr. P. 8003(a)(2) and pursuant to the prefiling injunctions that have been imposed against him. *Id.* at 10. In addition, the Court expressly warned Merkle that any future abusive litigation tactics, in a bankruptcy appeal (including this case) or any other federal case, may result in imposition of monetary sanctions payable to the court, in an amount to be determined by the imposing court. *Id.* at 11. Finally, it ordered Merkle to show cause why the Court should not expand upon the two prior prefiling injunctions to include additional requirements. *Id.* It further stated that **“other than appropriate filings related to appealing the dismissal of this case, the Court may disregard any filing other than a response to the order to show cause.”** *Id.* at 12.

On May 24, 2022, the Court considered Merkle’s response to the show cause order and issued a Sanction Order. *See* ECF No. 19. It ordered that “with any motion for leave required by this or any prior prefiling injunction,” Merkle shall file a separate “Notice Regarding Sanctions” to identify every sanction imposed upon him and every sanction warning that has been issued to him. *Id.* at 3-4. Such notice, furthermore, shall include as an attachment, a copy of each specific order imposing sanctions. *Id.* at 4. Further, “any motion for leave filed within the context of a bankruptcy appeal **SHALL** be filed within fourteen days of the date of the notice of appeal. A failure to timely seek leave may be grounds, of itself, to deny Merkle leave.” *Id.*

In November 2022, the Court received notice that the Fifth Circuit Court of Appeals dismissed Merkle’s appeal for lack of jurisdiction. *See* ECF No. 23. Nine months later on August 28,

2023, Merkle made four more filings, with a fifth on September 6, 2023. On September 8, 2023, the Court denied the motions presented through those filings and further sanctioned Merkle:

**As an additional sanction the Court hereby Orders that, other than appropriate filings regarding an appeal or an appropriate post-judgment motion, Carl N. Merkle is hereby precluded from making any filings in any closed case, including this one. Further, given his abusive filings and sanctions history, the Court WARNS him that use of the Court's drop box is a privilege for litigants that can be withdrawn for abusing the privilege.**


*See* ECF No. 30. On August 5, 2024, the Court received notice that the Fifth Circuit affirmed the September 2023 order appealed by Merkle.

By making his December 26, 2024 filing, Merkle has again abused the litigation process and has violated the sanction order precluding him from making filings in any closed case (with exceptions not applicable to his current filing). The Court hereby **DENIES** the Motion for Leave to File a Notice Regarding Sanctions and a Motion to Remove All Sanctions (ECF No. 37). Merkle has provided no adequate reason to remove any sanction imposed against him. He has not demonstrated that he has any good-faith, non-frivolous basis for seeking the relief requested by the proposed filing. He has instead continued to engage in abusive behavior.

The Court has previously warned Merkle that it may impose monetary sanctions payable to the Court. *See* ECF No. 13. Because prior sanctions have not deterred Merkle, **as an additional sanction, the Court hereby ORDERS that Carl N. Merkle is hereby monetarily sanctioned in the amount of \$1,000.00. He shall pay this amount directly to the clerk of this court "for deposit into the Treasury of the United States." *Ferguson v. MBank Houston, N.A.*, 808 F.2d 358, 360 (5th Cir. 1986). Until he pays the sanction in full and provides proof of payment, any new filing (with the exception of an appeal of this order) in the Western District of Texas may be disregarded and/or summarily denied based on his failure to show payment of the monetary sanction. Merkle is also warned that he may be monetarily sanctioned for each future filing he makes before paying the \$1,000 sanction imposed in this case. If Merkle**

continues his abusive tactics and actions, a court may also consider requiring Merkle to pay a monetary fee for each future filing whether in an existing case or an attempt to commence a new case.

IT IS SO ORDERED this 14th day of January 2025.

  
JASON PULLIAM  
UNITED STATES DISTRICT JUDGE

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

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**SUPREME COURT OF THE UNITED STATES**

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Carl NATHANiel Merkle

*Petitioner,*

vs.

Johnny W. Thomas, (a sham) Chapter 7 US Trustee, et al

*Respondent.*

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On Petition for a Writ of Certiorari to  
the United States Court of Appeals  
for the Fifth Circuit

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**APPENDIX D TO  
PETITION FOR WRIT OF CERTIORARI**

TWO US DISTRICT COURT ORDERS BY FRED BIERLY INVOLVING SANCTIONS. BOTH ORDERS ARE BASED ON LIES. THERE IS ZERO BASIS IN TRUE LAW AND TRUE FACT FOR WHAT IS REFLECTED IN THOSE ORDERS. SO, THEY HAVE BECOME PART OF GRAGG'S SCAM WITH GAG PLOT, AND A STRING OF OVER 12+ PROVABLE TO A JURY, "FRAUDS UPON THE COURT" WHERE USA FIRST STOLE MY HAZARD INSURANCE VIA AN ACCOUNTING FRAUD, THEN ULTIMATELY \$1.5 MILLION, AND THEN KIDNAPPED ME TO CONCEAL JUDICIAL CRIMES, AND THEN GAGGED ME TO PREVENT ME FROM HAVING MY CONSTITUTIONALLY GUARANTEED JURY TRIAL. SO, THE SUPREME JUDGE OF THE WORLD INTERVENED, GOT ANGRY AND BEGAN JUDGING THE NATION, VIA PLAGUES.

TWO ORDERS ENCLOSED: 1) DKT 50 IN THE TEXAS TEN COMMANDMENTS CASE, AND 2) DKT 3 IN THE HABEAS CORPUS CASE.

SEE [HTTPS://TINYURL.COM/BIERYLIED](https://tinyurl.com/bierylied) FOR THE ENTIRE HABEAS CORPUS DISTRICT COURT DOCKET. AND ESPECIALLY LOOK AT DKT 1-4 WHERE THE \$5 FEE WAS PAID, AND DKT 3 WHERE BIERLY SAID THE \$5 FEE WAS NOT PAID. I GOT RELEASED FROM PRISON BECAUSE THE SUPREME JUDGE TOLD ME IT WAS TIME TO LEAVE, NOT BECAUSE OF ANY HUMAN JUDGE'S DECISION.

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

**RABBI MARA NATHAN**, on Behalf  
of Herself and on Behalf of her Minor  
Child, M.N., *et al.*,

*Plaintiffs,*

**v.**

ALAMO HEIGHTS INDEPENDENT,  
SCHOOL DISTRICT, *et al.*,

*Defendants.*

[illegible]

CIVIL ACTION NO. SA-25-cv-00756-FB

## **ORDER DENYING LEAVE TO FILE AMICUS BRIEF**

Before the Court is the Motion of Carl N. Merkle, Pro Se, for Leave to File Amicus Brief in the above styled and numbered cause, filed on July 15, 2025. (Docket no. 34). Due to prior litigation history and warnings, prefiling injunctions previously imposed on Mr. Merkle have been expanded. *See e.g., In re: Carl N. Merkle*, No. 21-CV-01278–JKP, unpub. ord. (W.D. Tex. Apr. 11, 2022), *expanded at* unpub. ord. (W.D. Tex. May 24, 2022); *Merkle v. Thomas*, No. 20-CV-1060-OLG, unpub. ord. at 11-12 (W.D. Tex. Mar. 23, 2021); *Merkle v. Gragg*, No. SA-19-CV-640-XR, 2020 WL 2611858, at \*8 (W.D. Tex. May 22, 2020); *appeal dismissed*, No. 20-50471, 2020 WL 7233072 (5th Cir. Oct. 14, 2020). In his motion for leave, Mr. Merkle states that “the prefiling injunction and all others are being ignored.” (Docket no. 34 at page 1). The Court will deny the motion for leave.

IT IS THEREFORE ORDERED that the Motion of Carl N. Merkle, Pro Se, for Leave to File Amicus Brief (docket no. 34) is DENIED.

It is so ORDERED.

SIGNED this 5th day of August, 2025.

  
FRED BIERY  
UNITED STATES DISTRICT JUDGE





A civil rights lawsuit is the appropriate form of action when a prisoner seeks to challenge unconstitutional conditions of confinement. *Richardson v. Fleming*, 651 F.2d 366, 372 (5th Cir. 1981). In determining whether a prisoner must pursue habeas corpus relief rather than a civil rights action, the central issue is “whether the prisoner challenges the ‘fact or duration’ of his confinement or merely the rules, customs, and procedures affecting ‘conditions’ of confinement.” *Cook v. Texas Dep’t of Criminal Justice Transitional Planning Dep’t*, 37 F.3d 166, 168 (5th Cir. 1994); *see also Orellana v. Kyle*, 65 F.3d 29, 31 (5th Cir. 1995) (if favorable resolution of action would not automatically entitle prisoner to release, proper vehicle is Section 1983).

In this case, Petitioner filed this action as a petition for writ of habeas corpus but complains of various rulings in a bankruptcy appeal. (ECF No. 1). Thus, he has not alleged a habeas claim or a civil rights claim. Furthermore, even Mr. Merkle had alleged a civil rights claim, as a result of having been sanctioned, before filing any new lawsuit in this district, he must file a motion for leave to file the action, along with a proposed complaint or filing, which motion shall be randomly assigned to a judge in this district for disposition. Additionally, the Clerk has been instructed not to accept any new lawsuit from Mr. Merkle unless and until such motion for leave is filed and granted. *Merkle v. Gragg*, No. SA-19-CV-640-XR, 2020 WL 2611858, at \*8 (W.D. Tex. May 22, 2020), appeal dismissed, No. 20-50471, 2020 WL 7233072 (5th Cir. Oct. 14, 2020). Moreover, Mr. Merkle is also required to file a “Notice Regarding Sanctions, which [must] identify by case number and order date (a) every sanction imposed upon Mr. Merkle and (b) every sanction warning issued to him, whether by a federal, state or bankruptcy court.” *See Merkle v. Thomas*, SA: 21-CV-1278-JKP (W.D. Tex. Apr. 11, 2022).

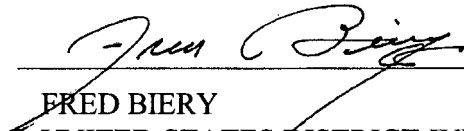
As Mr. Merkle seeks to challenge a prior court ruling in a civil case, he has not properly alleged a habeas action. Further, because Mr. Merkle failed to comply with the Sanctions Order, his "Petition" shall not be construed as a civil action.

Accordingly,

**IT IS ORDERED** that the Motion for Leave to File a Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241 (ECF No. 1), filed by Petitioner Carl Merkle is DENIED.

It is so **ORDERED**.

**SIGNED** this 1st day of June, 2022.

  
\_\_\_\_\_  
FRED BIERY  
UNITED STATES DISTRICT JUDGE