Fields v. Artis

United States Court of Appeals for the Sixth Circuit

August 29, 2025, Filed

No. 23-1750

Reporter
2025 U.S. App. LEXIS 22323 *; 2025 LX 373018

EDMUND LOWELL FIELDS, Petitioner-Appellant, v. FREDANE ARTIS, Warden, Respondent-Appellee.

Notice: CONSULT *6TH CIR. R. 32.1* FOR CITATION OF UNPUBLISHED OPINIONS AND DECISIONS.

Prior History: [*1] ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN.

Fields v. Artis, 2024 U.S. App. LEXIS 276 (Jan. 4, 2024)

Core Terms

district court, notice, time to appeal, reopen, motion to reopen, recusal

Case Summary

Overview
Key Legal Holdings

- The district court did not abuse its discretion in denying Fields's motion to reopen the time for filing a notice of appeal under *Federal Rule of Appellate Procedure 4(a)(6)*.
- The district court did not abuse its discretion in denying Fields's motion to disqualify the district court judge.

Material Facts

- Fields was convicted of second-degree murder and a firearm offense in Michigan state court in 2005.
- In 2012, Fields filed a habeas corpus petition under *28 U.S.C.S. § 2254*, which was denied in 2015.
- In 2021, Fields filed a *Rule 60(b)* motion for relief from judgment, which the district court denied on February 3, 2022.
- Fields filed an untimely notice of appeal on April 12, 2022, claiming he had not received notice of the February 3 order until March 23, 2022.
- Fields did not file his motion to reopen the time to appeal until at least April 8, 2022, more than 14 days after he admittedly became aware of the order.
- Fields claimed his former attorney of record (who was still listed on the docket) had not received electronic notice of the order either.

Controlling Law

- *Federal Rule of Appellate Procedure 4(a)(6)* - permits a district court to reopen the time for filing an appeal if specific conditions are met.
- *Federal Rule of Civil Procedure 60(b)*- governs relief from a final judgment or order.
- Standards for judicial recusal.

Court Rationale

Regarding the motion to reopen time for appeal: Even if Fields met the three conditions of *Federal Rule of Appellate Procedure 4(a)(6)*, the rule's "permissive language" means the district court retains discretion to deny such motions. Fields admitted receiving actual notice of the order on March 23, 2022, but did not file his motion until at least April 8, 2022, beyond the 14-day period. Fields provided no adequate explanation for this

delay. Fields's underlying *Federal Rule of Civil Procedure 60(b)* motion was clearly untimely (filed seven years after the denial of his habeas petition) and meritless. Regarding the motion to disqualify: Claimed defects in judicial rulings are almost never an adequate basis for recusal. The judge was not required to recuse herself merely because Fields raised a question about whether and how the clerk of court served the court's order.

Outcome
Procedural Outcome

The Court of Appeals affirmed the district court's order denying Fields's motions to disqualify the district court judge and for relief from the denial of his motion to reopen the time for filing a notice of appeal. The court also denied Fields's motions for appointment of counsel and to strike the Respondent's brief.

LexisNexis® Headnotes

Criminal Law & Procedure > Appeals > Standards of Review > Abuse of Discretion

Criminal Law & Procedure > Appeals > Procedural Matters > Time Limitations

HN1 **Standards of Review, Abuse of Discretion**

The denial of a *Fed. R. App. P. 4(a)(6)* motion to reopen the time to appeal is reviewed for an abuse of discretion. A district court abuses its discretion when it relies on clearly erroneous findings of fact, when it improperly applies the law, or when it uses an erroneous legal standard. A district court may reopen the time for filing an appeal by 14 days if (1) the court determines that the movant did not receive notice under *Fed. R. Civ. P. 77(d)* of the entry of the judgment or order sought to be appealed within 21 days after entry, (2) the motion is filed within 180 days after the judgment or order is entered or within 14 days after the moving party receives notice under *Fed. R. Civ. P. 77(d)* of the entry, whichever is earlier, and (3) the court determines that no party would be prejudiced. Even if a party meets these three conditions, however, the Rule's permissive language means that the district court retains discretion to deny a *Fed. R. App. P. 4(a)(6)* motion.

Criminal Law & Procedure > Preliminary Proceedings > Pretrial Motions & Procedures > Disqualification & Recusal

HN2 **Pretrial Motions & Procedures, Disqualification & Recusal**

Claimed defects in judicial rulings are almost never an adequate basis for recusal.

Counsel: For EDMUND LOWELL FIELDS, Petitioner - Appellant: Edmund Lowell Fields, Thumb Correctional Facility, Lapeer, MI.

For FREDEANE ARTIS, Warden, Respondent - Appellee: Jared D. Schultz, John S. Pallas, Office of the Attorney General, Lansing, MI.

Judges: Before: CLAY, McKEAGUE, and THAPAR, Circuit Judges.

Opinion

ORDER

Petitioner Edmund Lowell Fields, a Michigan prisoner proceeding pro se, appeals the district court's order denying his motions to disqualify the district court judge and for relief from the denial of his motion to reopen the time for filing a notice of appeal in his *28 U.S.C. § 2254* proceeding. This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. *See Fed. R. App. P. 34(a)*. Fields also moves for the appointment of counsel and to strike Respondent's brief. Because the district court did not abuse its discretion, we affirm.

In 2005, a jury convicted Fields of second-degree murder and a firearm offense, and the trial court sentenced him to 23 to 50 years of imprisonment, consecutive to two years of imprisonment for the firearm offense. The Michigan Court of Appeals affirmed. **[*2]** *People v. Fields, No. 266738, 2007 WL 1712619, at *7 (Mich. Ct. App. June 14, 2007)* (per curiam), *perm. app. denied, 480 Mich. 925, 740 N.W.2d 264 (Mich. 2007)*. In 2012, Fields filed his *§ 2254* petition, which the district court denied. *Fields v. Bergh, No. 12-cv-12658, 2015 U.S. Dist. LEXIS 4781, 2015 WL 224755, at *20 (E.D. Mich. Jan. 15, 2015)*. This court denied a certificate of appealability. *Fields v. Bergh*, No. 15-1097 (6th Cir. Nov. 17, 2015).

In 2021, Fields moved for relief from judgment in the district court. Citing Federal Rule of Civil Procedure 60(b) and (d), Fields claimed that the district court overlooked two affidavits in the state court record when it denied his habeas petition. On February 3, 2022, the district court denied the motion, concluding that it was untimely, that the affidavits had not been overlooked, and that the evidence did not establish Fields's actual innocence. Fields v. Bergh, No. 12-cv-12658, 2022 U.S. Dist. LEXIS 21967, 2022 WL 332777, at *3 (E.D. Mich. Feb. 3, 2022). Fields filed an untimely notice of appeal on April 12, 2022, asserting that he had not received a copy of the February 3 order and had learned of it only from his research at the prison law library. We remanded the case to the district court to consider whether to grant an extension of time to appeal under *Federal Rule of Appellate Procedure 4(a)(5)*. The district court denied an extension, concluding that Fields had not submitted his notice of appeal or a motion for an extension of time within the timeframe established by *Rule 4(a)(5)*. The district court also declined to reopen the time to appeal under *Rule 4(a)(6)*, reasoning that Fields did not satisfy its requirements because his **[*3]** attorney of record had been electronically served with the court's February 3 order on the date it was issued. We therefore dismissed his appeal for lack of jurisdiction. Fields v. Cheeks, No. 22-1354, 2022 U.S. App. LEXIS 16837, 2022 WL 2919972, at *1 (6th Cir. June 16, 2022) (order).

After that dismissal, Fields again moved to reopen the time to appeal under *Rule 4(a)(6)*. The district court denied the motion, noting that it had already decided the issue and that, to the extent Fields sought reconsideration, his request was untimely. In July 2023, Fields moved for relief from judgment under Rule 60(b), based on new evidence that he had not received proper notice of the February 3 order. He asserted that he had filed a complaint against his former attorney for failing to inform him of the order, and his attorney responded that he had not represented Fields for seven years and was unaware of the order. Fields also moved to have the district court judge disqualified for claiming that the court had electronically served the order on his former attorney. The district court denied both motions, determining that Fields had not presented a valid basis for recusal and that, even if Fields's attorney did not receive electronic notice of the February 3 order, Fields still did not submit his notice of appeal or motion **[*4]** for an extension of time within 14 days of the date on which he admittedly became aware of the order.

Fields argues on appeal that his motion for additional time to appeal was timely under *Rule 4(a)(6)* and that the district court abused its discretion by denying his motion. He claims that he was not served with the February 3 order and that his former attorney also did not receive it; his discovery of the order through his own initiative was insufficient to qualify as "notice" triggering the start of the 14-day time period in which he could move to reopen the time to appeal; and no party would suffer prejudice from reopening. He also argues that the district court judge should have recused herself given her prior adverse rulings and her personal involvement in the question of when and whether he was served with its original order.

HN1[↑] We review for an abuse of discretion the denial of a *Rule 4(a)(6)* motion to reopen the time to appeal. Kuhn v. Sulzer Orthopedics, Inc., 498 F.3d 365, 368 (6th Cir. 2007); *see* Penney v. United States, 870 F.3d 459, 461 (6th Cir. 2017) (noting that we also review the denial of relief under Rule 60(b) for an abuse of discretion). "A district court abuses its discretion when it relies on clearly erroneous findings of fact, when it improperly applies the law, or when it uses an erroneous legal standard." Kuhn, 498 F.3d at 368-69. A district **[*5]** court may reopen the time for filing an appeal by 14 days if (1) the court determines that the movant "did not receive notice under Federal Rule of Civil Procedure 77(d) of the entry of the judgment or order sought to be appealed within 21 days after entry," (2) "the motion is filed within 180 days after the judgment or order is entered or within 14 days after the moving party receives notice under Federal Rule of Civil Procedure 77(d) of the entry, whichever is earlier," and (3) the court determines that "no party would be prejudiced." *Fed. R. App. P. 4(a)(6)*. Even if a party meets these three conditions, however, the Rule's "permissive language" means that "the district court retains discretion to deny a *Rule 4(a)(6)* motion." Kuhn, 498 F.3d at 369.

Although *Rule 4(a)(6)* would permit granting Fields's motion to reopen the time to appeal—and the district court could have reasonably exercised its discretion to do so—we conclude that the district court did not abuse its discretion by not doing so. Crediting Fields's assertions that neither he nor his attorney received formal notice of the district court's February 3 order, he still admits that he received actual notice of the order on March 23, 2022, and he did not file his motion to reopen until April 8, 2022, at the earliest, more than 14 days later. The Advisory Committee **[*6]** Notes to the 2005 Amendments to *Rule 4(a)(6)(B)* explain that only "formal notice of the entry of that judgment or order under Civil

Rule 77(d)" will trigger the time for moving to reopen the time to appeal. And it does not appear that Fields received formal notice. But this only means that the district court was not precluded from granting Fields's motion to reopen, not that the district court was required to exercise its discretion to grant the motion. *See Kuhn, 498 F.3d at 369*. And Fields provides no adequate explanation for the delay once he did have actual notice of the February 3 order, beyond asserting in his reply brief that he wanted to give the clerk of court time to correct its own mistake. This is not enough for us to conclude that the district court abused its discretion. This is particularly true when Fields's underlying motion for relief from judgment, filed approximately seven years after the denial of his habeas petition, was clearly untimely and meritless.

Fields also argues that the district court judge should have recused herself given her personal involvement in the court's adverse rulings against him and the question of when and whether he was served with the February 3 order. *HN2*[⬆] Claimed defects in judicial rulings **[*7]** are almost never an adequate basis for recusal, however. *See Liteky v. United States, 510 U.S. 540, 555, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994)*. And we see no reason to conclude that the judge should have recused herself merely because Fields raised a question of whether and how the clerk of court served the court's order.

Accordingly, we **AFFIRM** the district court's order. We **DENY** Fields's motions for the appointment of counsel and to strike the Respondent's brief.

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Fields v. Bergh

United States District Court for the Eastern District of Michigan, Southern Division

January 26, 2023, Decided; July 26, 2023, Filed

CASE NO. 2:12-CV-12658

Reporter
2023 U.S. Dist. LEXIS 129186 *; 2023 WL 4765563

EDMUND LOWELL FIELDS, #487029, Petitioner, v. DAVID BERGH, Respondent.

Prior History: *Fields v. Bergh, 2012 U.S. Dist. LEXIS 102452 (E.D. Mich., July 24, 2012)*

Core Terms

notice of appeal, disqualification, notice, reopen, motion for relief, recusal

Counsel: **[*1]** For Edmund Fields, Petitioner: Phillip D. Comorski, Detroit, MI.

For David Bergh, Warden, Respondent: John S. Pallas, Michigan Department of Attorney General, Appellate Division, Lansing, MI; William M. Worden, Livingston County Prosecutor Office, Howell, MI.

Judges: HON. Denise Page Hood, United States District Judge.

Opinion by: Denise Page Hood

Opinion

ORDER DENYING PETITIONER'S MOTIONS FOR DISQUALIFICATION AND FOR RELIEF FROM JUDGMENT (Nos. 51, 53)

Michigan prisoner Edmund Lowell Fields ("Petitioner") was denied habeas relief in January, 2015. In December, 2021, he filed a motion for relief from judgment and independent action pursuant to *Federal Rules of Civil Procedure 60(b)* and *60(d)*, which the Court denied on February 3, 2022. Petitioner subsequently filed a motion for extension of time to file a motion for rehearing and a motion for rehearing, along with a notice of appeal, with a proof of service dated April 11, 2022. The Court denied those motions on May 4, 2022. On appeal, the United States Court of Appeals for the Sixth Circuit issued a limited remand for the Court to determine whether Petitioner's time for filing a notice of appeal should be extended. On May 23, 2022, the Court concluded that it should not. The Sixth Circuit subsequently dismissed **[*2]** Petitioner's appeal for lack of jurisdiction. Petitioner then filed a motion to reopen the time for filing an appeal, which the Court denied on July 20, 2022. This matter is now before the Court on Petitioner's motions for disqualification of the judge and for relief from judgment.

I. Motion for Disqualification

Petitioner seeks judicial disqualification, i.e. recusal, because he believes that the Court is biased against him due to its handling of his habeas case. Disqualification or recusal of a district judge is governed by *28 U.S.C. § 455*. *Subpart (a)* of that statute provides that "[a]ny justice, judge, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." *28 U.S.C. § 455(a)*; *see generally Liteky v. United States, 510 U.S. 540, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994)*. *Subpart (b)* of that statute provides, in relevant part, that a district judge "shall also disqualify himself . . . [w]here he has a personal bias or prejudice concerning a party. . . ." *28 U.S.C. § 455(b)(1)*. This standard is objective and is not based upon the subjective view of the party seeking recusal. *United States v. Dandy, 998 F.2d 1344, 1349 (6th Cir. 1993)*.

Petitioner alleges judicial bias based upon the Court's rulings in this case. "[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion . . . unless **[*3]** they display a deep-seated favoritism or antagonism that would make fair judgment impossible." *Liteky, 510 U.S. at 555*. Petitioner fails to show that the Court's handling of this case demonstrates such a deep-

seated antagonism. He fails to establish that a reasonable person would find that prejudice or bias exists or to otherwise present facts to support disqualification or recusal. *See Burton v. Jones, 321 F.3d 569, 577 (6th Cir. 2003)*. Petitioner merely dislikes the Court's handling of his case. Such a complaint provides no basis for recusal. Accordingly, the Court **DENIES** his motion for disqualification.

II. Motion for Relief from Judgment

Petitioner also seeks relief from the Court's May 23, 2022 and July 20, 2022 orders denying his request to extend or reopen the time for filing a notice of appeal (concerning the Court's February 3, 2022 denial of his motions for relief from judgment). Petitioner brings this motion pursuant to *Federal Rule of Civil Procedure 60(b)*. That rule provides that a district court will grant relief from a final judgment or order only upon a showing of one of the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that with reasonable diligence could not have been discovered in time to move for a new trial under **[*4]** *Rule 59(b)*; (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or otherwise vacated; or applying it prospectively is no longer equitable; or (6) any other reason that justifies relief. *Fed. R. Civ. P. 60(b)*. Petitioner seeks relief from judgment because he contends that his habeas counsel never received a copy of the Court's electronic notice of its February 3, 2022 order denying his *Rule 60* motions.

Petitioner fails to show that he is entitled to relief from judgment. Under the Federal Rules of Appellate Procedure, a notice of appeal must be filed with the federal district court within 30 days after the judgment or order appealed from is entered. *See Fed. R. App. P. 4(a)(1)(A)*. A federal district court may extend the time to file a notice of appeal if a party so moves no later than 30 days after the time prescribed expires and that party shows excusable neglect or good cause. *See Fed. R. App. P. 4(a)(5)*. "[T]he timely filing of a notice of appeal in a civil case is a jurisdictional requirement." *Bowles v. Russell, 551 U.S. 205, 214, 127 S. Ct. 2360, 168 L. Ed. 2d 96 (2007)*. The Court denied Petitioner's *Rule 60* motions on February 3, 2022. **[*5]** Petitioner gave his notice of appeal and motion for extension of time to prison officials for mailing on April 11, 2022. Thus, he did not file his notice of appeal or his motion for an extension of time within 60 days the Court's decision such that he fails to meet the time requirement of *Federal Rule of Appellate Procedure 4(a)(5)*. Consequently, the Court did not err in declining to extend the time to file a notice of appeal under that rule.

The Court also did not erred in refusing to reopen the time for filing an appeal under *Federal Rule of Appellate Procedure 4(a)(6)*. That rule states:

> The district court may reopen the time to file an appeal for a period of 14 days after the date when its order to reopen is entered, but only if all the following conditions are satisfied:
>
> (A) the court finds that the moving party did not receive notice under *Federal Rule of Civil Procedure 77(d)* of the entry of the judgment or order sought to be appealed from within 21 days after entry;
>
> (B) the motion is filed within 180 days after the judgment or order is entered or within 14 days after the moving party receives notice under *Federal Rule of Civil Procedure 77(d)* of the entry, whichever is earlier; and
>
> (C) the court finds that no party would be prejudiced.

Fed. R. App. P. 4(a)(6).

Petitioner fails to satisfy these requirements. *Federal Rule of Civil Procedure 77(d)* provides that notice of a judgment or order must be served **[*6]** on a party in accordance with *Rule 5(b)*. *Fed. R. Civ. P. 77(d)(1)*. *Federal Rule of Civil Procedure 5(b)*, in turn, provides that where a party is represented by an attorney service must be made on the party's attorney unless the court orders service on the party, *Fed. R. Civ. P. 5(b)(1)*, and may be accomplished by electronic means, *Fed. R. Civ. P. 5(b)(2)(E)*. Court records showed that a copy of the Court's February 3, 2022 order was electronically served on Petitioner's attorney of record on that date. This satisfies the notice and service requirements of *Federal Rule of Civil Procedure 77(d)* and *Federal Rule of Civil Procedure 5(b)*. Petitioner now alleges that his attorney did not receive the electronic notice of the Court's order within 21 days after its entry on the docket. Assuming that such is the case, Petitioner arguably meets the first requirement of *Rule 4(a)(6)*. However, he still fails to satisfy the second requirement. As noted in the Court's remand order, Petitioner stated that he learned of the Court's February 3, 2022 decision on March 23, 2022 upon researching his case in the prison

law library, yet he did not submit his notice of appeal and his motion for extension of time to prison officials for mailing until 19 days later, on April 11, 2022, more than 14 days after he received notice of the Court's order. Consequently, the Court properly refused to reopen the time **[*7]** to file an appeal under *Rule 4(a)(6)*. Petitioner fails to show that he is entitled to relief under *Rule 60(b)*. Accordingly, the Court **DENIES** his motion for relief from judgment.

IT IS ORDERED that Petitioner's Motion Seeking Disqualification of Judge, Justice or Magistrate (ECF No. 51) and Motion for Relief from Judgment (ECF No. 53) are DENIED. This case remains closed.

Dated: January 26, 2023

/s/ Denise Page Hood

United States District Judge

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EDMUND LOWELL FIELDS, #487029,

Petitioner,

v.

CASE NO. 2:12-CV-12658
HON. DENISE PAGE HOOD

DAVID BERGH,

Respondent.
_____/

ORDER DENYING MOTION FOR CERTIFICATE OF APPEALABILITY (ECF No. 58)

This matter is now before the Court on Petitioner's Motion for Certificate of Appealability. (ECF No. 58) For the reasons set forth below, the Court denies the motion.

Edmund Lowell Fields ("Petitioner") was denied habeas relief in January, 2015. (ECF Nos. 27, 28) In December, 2021, he filed a motion for relief from judgment and independent action pursuant to Federal Rules of Civil Procedure 60(b) and 60(d), which the Court denied on February 3, 2022. (ECF No. 35) Petitioner subsequently filed a motion for extension of time to file a motion for rehearing and a motion for rehearing, along with a notice of appeal, with a proof of service dated April 11, 2022. The Court denied those motions on May 4, 2022. (ECF No. 42)

On appeal, the United States Court of Appeals for the Sixth Circuit issued a

limited remand for the Court to determine whether Petitioner's time for filing a notice of appeal should be extended. On May 23, 2022, the Court concluded that it should not. (ECF No. 44) The Sixth Circuit subsequently dismissed Petitioner's appeal for lack of jurisdiction. Petitioner then filed a motion to reopen the time for filing an appeal, which the Court denied on July 20, 2022. (ECF No. 48) On July 26, 2023, the Court entered an Order Denying Petitioner's Motions for Disqualification and for Relief from Judgment. (ECF No. 54)

On August 21, 2023, Petitioner filed a Motion for Certificate of Appealability, with the "United States Court of Appeals for the Sixth Circuit" caption. If Petitioner intended to file this Motion with the Sixth Circuit Court of Appeals, Petitioner must file such with the Sixth Circuit Clerk's Office in Cincinnati, Ohio. Inasmuch as Petitioner is seeking a certificate of appealability from this district court, the Court denies the request, for the reasons set forth below.

A certificate of appealability is necessary to appeal the denial of a Rule 60 motion. *See, e.g., Johnson v. Bell*, 605 F.3d 333, 336 (6th Cir. 2010) (citing *United States v. Hardin*, 481 F.3d 924, 926 (6th Cir. 2007)); *Kissner v. Palmer,* Case No. 18-2356, 2019 WL 2298964 at *1 (6th Cir. 2019). A certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). When a court denies relief on the merits,

the substantial showing threshold is met if the petitioner demonstrates that reasonable jurists would find the court's assessment of the claim debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000). When a court denies relief on procedural grounds without addressing the merits, a certificate of appealability should issue if it is shown that jurists of reason would find it debatable whether the petitioner states a valid claim of the denial of a constitutional right, and that jurists of reason would find it debatable whether the court was correct in its procedural ruling. *Id.*

After review of the Court's Order Denying Petitioner's Motions for Disqualification and for Relief from Judgment (see ECF No. 54), the Court concludes Petitioner is not entitled to a certificate of appealability because he fails to demonstrate that jurists of reason would find it debatable that the Court abused its discretion in denying the motions. Inasmuch as Petitioner is seeking a certificate of appealability in this District,

Accordingly,

IT IS ORDERED that Petitioner's Motion for Certificate of Appealability (ECF No. 58) is DENIED and a Certificate of Appealability will not issue.

s/Denise Page Hood
DENISE PAGE HOOD
UNITED STATES DISTRICT JUDGE

Dated: August 25, 2023