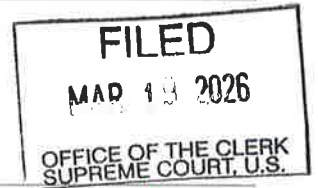


No. 25-6461

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**SUPREME COURT OF THE UNITED STATES**

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*Michael Anthony Christopher Cochren II* - Petitioner

A red handwritten signature, appearing to be "AC Cochren II", written in a cursive style.

*v.*

*White Castle System, Inc., et al.* - Respondent(s)

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On Petition for a Rehearing to the Supreme Court of the United States

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**PETITION FOR REHEARING**

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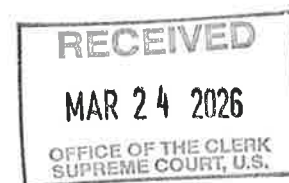
Michael Anthony Christopher Cochren II

*Counsel of Record*

3409 Chippewa Street

St. Louis, MO 63118

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## QUESTION(S) PRESENTED

1. Has anyone else, except for Mr. Cochren, *lawfully* applied for a writ of certiorari *after* a rehearing denial in a U.S. Court of Appeals? (Meaning, they must comply with, and be restricted to, 28 U.S.C. 2101(c).)
2. Did White Castle System, Inc.'s counsel *timely* waive service, under FRCP 4(d), if their Waiver of the Service of Summons form was signed, and returned, *after* White Castle System, Inc. was formally served with process at its registered agent?

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IN THE  
SUPREME COURT OF THE UNITED STATES

Petition for Rehearing

Petitioner, Mr. Cochren, *rightfully* pursues a rehearing, within 25 days, after a writ of certiorari denial order (App. 1a) issued on Feb. 23, 2026. A writ of certiorari is needed for a determination by the Supreme Court; it formally, and lawfully, brings the lower courts' judgments to the Supreme Court for review. 28 U.S.C. § 2106<sup>1</sup> is Mr. Cochren's *chosen* statutory provision believed to confer on Supreme Court jurisdiction to review, on a writ of certiorari, the U.S. Court of Appeals *judgment and order* presented in his case.

I. Intervening Circumstances of a Substantial, or Controlling, Effect

Mr. Cochren *lawfully* applied for a writ of certiorari pursuant to, both, 28 U.S.C. § 2101(c) and S. Ct. Rule 13. Mr. Cochren's granted Application 25A301 *strategically* extends the time to apply for a writ of certiorari, in order to remain within statutory provisions, *after* a rehearing denial in a U.S. Court of Appeals; it makes it agreeable to the usages and principles of law *and* S. Ct. Rule 13. Mr. Cochren initially tried to pursue, *non-ifp*, common-law certiorari, but this Court's Clerk's Office switched the case's caption, and procedures, from S. Ct. Rule 20. The statute of limitations to apply for a common-law writ of certiorari is 90 days from the judgment or decree, with a maximum of 150 days after a granted application. That practice is agreeable to the usages and principles of law, and is *mandatory* even after a rehearing denial in a U.S. Court of Appeals. Every petition

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<sup>1</sup> "The Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment, decree, or order of a court lawfully brought before it for review, and may remand the cause and direct the entry of such appropriate judgment, decree, or order, or require such further proceedings to be had as may be just under the circumstances." 28 U.S. Code § 2106.

for *common-law certiorari* must comply with 28 U.S.C. § 2101(c), or face denial. Anything outside of 28 U.S.C. § 2101(c) must be made for *regular* certiorari instead of *common-law* certiorari; otherwise, it'd be jurisdictionally out of time and not agreeable to the usages and principles of *law*. Those petitions, that are out of the statutory provisions of 28 U.S.C. § 2101(c), need to be following what's stated in Part III of the Supreme Court's Rule Book to be considered 'timely'. For example, there are petitions for writs of certiorari that are outside of 28 U.S.C. § 2101(c) due to going through a rehearing denial, in a U.S. Court of Appeals, and adhering to S. Ct. Rule 13.3. If granted, like Case Nos. 25-459 & 25-579, those are 'discretionary' picks, of the Court, for a petition that's following its rules but jurisdictionally out of time while under statutory law. A granted application, for an extension of time, is *necessary* for any petition for a common-law writ of certiorari filed after 90 days from the judgment or decree in question, even when following S. Ct. Rule 13.3 after a rehearing denial order; it must, *also*, not extend over the 150 day maximum.

The *character* of Mr. Cochren's presented case, and reason for certiorari, is pursuant to S. Ct. Rule 10(a). The United States Court of Appeals for the Eighth Circuit sanctioned the U.S. District Court for the Eastern District of Missouri's departure from the *accepted* and usual course of judicial proceedings, as to call for an exercise of this Court's supervisory power. The Supreme Court has previously ruled that a court has no inherent power to create a record from which no evidence exists, even to amend erroneous records.<sup>2</sup>

The District Court, in Mr. Cochren's case, created a false record of proof of service being submitted, on Sept. 5, 2024, that has *zero* evidence or support to it. The actual proof

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<sup>2</sup> "The inherent power which exists in a court to amend its records, and correct mistakes and supply defects and omissions therein, is not a power to create a new record, but presupposes an existing record susceptible of correction or amendment." See, *Gagnon v. United States*, 193 U.S. 451 (1904).

of service, in the \$80,000,000.00 defaulted case, was concealed or *destroyed* by the District Court and its Clerk's Office. Mr. Cochren filed proof of service, first, on Oct. 10, 2024. The default's entry was obstructed by the District Court's, *clearly*, erroneous record. White Castle System Inc. (White Castle) filed an *untimely* FRCP 12(b)(6) motion to dismiss.

Mr. Cochren's case pursues a default, against White Castle, and proves a formally served summons *can't* be nullified with a Waiver of the Service of Summons form, in order to extend the time to respond to a Civil Complaint. The Federal Rules of Civil Procedure define the authority of a duly served summons that way; the served summons *supersedes* an untimely waiver. See, FRCP 12(a)(1)(A)(i)-(ii) (App. 13a) & FRCP 4(d)(3) (App. 12a). See, *Notes of Advisory Committee on Rules - 1993*, under Federal Rules of Civil Procedure 4<sup>3</sup> and 12.<sup>4</sup> White Castle *failed* to timely waive service, and can't be allotted a response time of 60 days from when the waiver request was sent in the mail; their *contemptible*

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<sup>3</sup> ***Notes of Advisory Committee on Rules - 1993 - FRCP 4:***

Regarding FRCP 4(d), "Paragraph (3) extends the time for answer *if, before being served with process*, the defendant waives formal service."

"Some plaintiffs may send a notice and request for waiver and, without waiting for return of the waiver, also proceed with efforts to effect formal service on the defendant."

<sup>4</sup> ***Notes of Advisory Committee on Rules - 1993 - FRCP 12:***

Regarding FRCP 12(a)(1)(A)(ii), "Consistent with Rule 4(d)(3), a defendant that timely waives service is allowed 60 days from the date the request was mailed in which to respond to the complaint, with an additional 30 days afforded if the request was sent out of the country."

"Service is timely waived if the waiver is returned within the time specified in the request (30 days after the request was mailed, or 60 days if mailed out of the country) and before being formally served with process. Sometimes a plaintiff may attempt to serve a defendant with process while also sending the defendant a request for waiver of service; if the defendant executes the waiver of service within the time specified *and before being served with process*, it should have the longer time to respond afforded by waiving service."

attorney challenged a *served* summons' authority, and waited it out. The District Court's *false*, and electronic, record allowed for White Castle's attorney to utilize *deceit* in order to escape a default, and its judgment, in the District Court. A U.S. Court of Appeals affirmed a clearly erroneous decision of a District Court *without* opinion; the damages, costs, and reversal, are through 28 U.S.C. § 1912<sup>5</sup>. See, also, S. Ct. Rules 43.2 and 43.7.

The finding of 'fact' that White Castle timely waived service should be set aside as, *clearly*, erroneous. Fed. R. Civ. P. 52(a)(6)<sup>6</sup> is for setting aside findings of the court.

("Under Rule 52(a) of the Rules of Civil Procedure, a finding of fact by the trial court is 'clearly erroneous' when, although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed.") ("That rule prescribes that findings of fact in actions tried without a jury 'shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge of the credibility of the witnesses.'") ("this court may reverse findings of fact by a trial court where "clearly erroneous"). See, United States v. United States Gypsum Co., 333 U.S. 364 (1948).

The District Court intentionally entered *erroneous* information into the record, regarding proof of service and White Castle's waiver, and allowed it to be relied on. Mr. Cochren would like the U.S. Court of Appeals' *careless* affirmation to be reversed, by the Supreme Court, with just damages and costs awarded to Mr. Cochren for his delay as the *correct* prevailing party, while he undoubtedly proves White Castle's default, and *judgment* for it, should be due to their *unmoving* noncompliance with FRCP 12(a)(1)(A)(i)-(ii), paired

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<sup>5</sup> "Where a judgment is affirmed by the Supreme Court or a court of appeals, the Court in its discretion may adjudge to the prevailing party just damages for his delay, and single or double costs." 28 U.S.C. § 1912.

<sup>6</sup> "Findings of fact, whether based on oral or other evidence, must not be set aside unless clearly erroneous, and the reviewing court must give due regard to the trial court's opportunity to judge the witnesses' credibility." Fed. R. Civ. P. 52(a)(6).

with their improper conduct in the District Court.<sup>7</sup> Mr. Cochren would like a reversal similar to the reversal in *Gerdes v. Lustgarten*, 266 U.S. 321 (1924).<sup>8</sup> Mr. Cochren initially pursued common-law certiorari because it can be utilized to remand the case back to the District Court for the entry of a default,<sup>9</sup> and default *judgment*,<sup>10</sup> with an alternative writ.

28 U.S.C. § 1651 makes it possible; subsection (a) is to issue the common-law writ of certiorari, and subsection (b), along with subsection (a), is to issue an *alternative writ or rule nisi*, if a Justice sees fit, after the Court receives jurisdiction because of the issued common-law writ of certiorari. To Mr. Cochren, that's why a *Petition for a Common-Law Writ of Certiorari* is grouped with Extraordinary Writ petitions. The Clerk's Office of the Supreme Court, *literally*, obstructed Mr. Cochren's petitioning for common-law certiorari.

White Castle previously waived their right to respond, in this Court, and they still have yet to successfully defend against their default, within rules; that's *two* different failures to defend. White Castle has nothing except a *pathetic* use of deceit, as defense. Require them to prove they *timely* waived service, over their email, it's that simple.

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<sup>7</sup> "Default judgment for failure to defend is appropriate when the party's conduct includes 'willful violations of court rules, contumacious conduct, or intentional delays.' *Harre*, 983 F.2d at 130". *Akra Direct Marketing Corp. v. Fingerhut*, 86 F.3d 852 (8th Cir. 1996).

<sup>8</sup> "The decrees of the District Court and of the Circuit Court of Appeals are accordingly reversed, and the cause is remanded to the District Court for further proceedings in accordance with this opinion." *Gerdes v. Lustgarten*, 266 U.S. 321 (1924).

<sup>9</sup> "The district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff." 28 U.S.C. § 1361.

<sup>10</sup> ("The Federal Rules of Civil Procedure commit the entry of a default judgment against a party to the sound discretion of the trial court."). *Federal Trade Commission v. Packers Brand Meats, Inc.*, 562 F.2d 9 (8th Cir. 1977).

The served summons (App. 8a) supersedes White Castle's untimely waiver (App. 9a); the Affidavit of Service (App. 7a) is from a hired process server. The email from White Castle's representation (App. 5a) proves their counsel knew the company was formally served on Sept. 10, 2024. Their counsel, then, signed and returned a Waiver of the Service of Summons form, in order to *nullify* the served summons and extend the time to answer to Mr. Cochren's Civil Complaint. Unbeknownst to Mr. Cochren at the time, that type of time extension breaks a boundary *set* within the Federal Rules of Civil Procedure. The District Court claimed White Castle adhered to the time requirements of Fed. R. Civ. P 4(d)(3), and then *timely* filed a motion to dismiss; White Castle *didn't* timely waive service.

## II. Conclusion

Respecting S. Ct. Rule 44.4, this isn't a consecutive petition for a writ of certiorari; it's a petition for a rehearing, *after* the Supreme Court's certiorari denial order (App. 1a), and a new nature of proceeding. A petition for rehearing involves the disposition of cases, and a separate filing fee if the petitioner isn't proceeding *in forma pauperis*.

The petition for rehearing should be granted.

Executed on Mar. 19, 2026.

Respectfully Submitted,

Michael Anthony Christopher Cochren II

*Counsel of Record*

*MC II*  
x \_\_\_\_\_

3409 Chippewa Street

St. Louis, MO 63118

(314) 824-9350

No. 25-6461

---

**SUPREME COURT OF THE UNITED STATES**

---

*Michael Anthony Christopher Cochren II* - Petitioner

*v.*

*White Castle System, Inc., et al.* - Respondent(s)

---

On Petition for a Rehearing to the Supreme Court of the United States

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**APPENDIX TO PETITION FOR REHEARING**

---

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

MICHAEL ANTHONY CHRISTOPER )  
COCHREN II, )

Plaintiff, )

vs. )

WHITE CASTLE SYSTEM, INC., *et al.*, )

Defendants. )

Case No. 4:24-cv-01129-JSD

**JUDGMENT**

In accordance with the Memoranda and Orders entered this day and incorporated herein,  
**IT IS HEREBY ORDERED, ADJUDGED and DECREED** that Defendant Equal  
Employment Opportunity Commission's Motion to Dismiss [ECF No. 29] is **GRANTED**.

**IT IS FURTHER ORDERED, ADJUDGED and DECREED** that Defendant White  
Castle System, Inc.'s Motion to Dismiss [ECF No. 23] is **GRANTED**.

**IT IS FURTHER ORDERED** that the Court's Order staying proceedings [ECF No. 58]  
is vacated forthwith and, to the extent there are pending motions, said motions are denied as moot.

Accordingly,

**IT IS FINALLY ORDERED, ADJUDGED AND DECREED** that all of Plaintiff's  
claims are **DISMISSED** with prejudice.

Dated this 22nd day of January, 2025.

  
\_\_\_\_\_  
JOSEPH S. DUEKER  
UNITED STATES MAGISTRATE JUDGE

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Appendix B

**UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT**

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No: 25-1196

---

Michael Anthony Christopher Cochren, II

Plaintiff - Appellant

v.

White Castle System, Inc.; Equal Employment Opportunity Commission; U.S. St. Louis District  
Office (EEOC)

Defendants - Appellees

---

Appeal from U.S. District Court for the Eastern District of Missouri - St. Louis  
(4:24-cv-01129-JSD)

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**JUDGMENT**

Before LOKEN, BENTON, and GRASZ, Circuit Judges.

This court has reviewed the original file of the United States District Court. It is ordered by the court that the judgment of the district court is summarily affirmed. See Eighth Circuit Rule 47A(a). The motion to amend caption is denied as moot.

May 14, 2025

Order Entered at the Direction of the Court:  
Clerk, U.S. Court of Appeals, Eighth Circuit.

---

/s/ Susan E. Bindler

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Appendix C

**UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT**

No: 25-1196

Michael Anthony Christopher Cochren, II

Appellant

v.

White Castle System, Inc., et al.

Appellees

---

Appeal from U.S. District Court for the Eastern District of Missouri - St. Louis  
(4:24-cv-01129-JSD)

---

**ORDER**

The petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied.

July 11, 2025

Order Entered at the Direction of the Court:  
Clerk, U.S. Court of Appeals, Eighth Circuit.

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/s/ Susan E. Bindler

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Appendix D

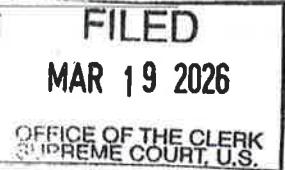
**Additional material  
from this filing is  
available in the  
Clerk's Office.**

No. 25-6461

---

**SUPREME COURT OF THE UNITED STATES**

---



*Michael Anthony Christopher Cochren II* - Petitioner

*v.*

*White Castle System, Inc., et al.* - Respondent(s)

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On Petition for a Rehearing to the Supreme Court of the United States

---

**PROOF OF SERVICE**

---

Michael Anthony Christopher Cochren II

*Counsel of Record*

3409 Chippewa Street

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**PROOF OF SERVICE**

I, hereby, certify that this petition for rehearing was placed in the mail, by means no less than First-Class mail, within 25 calendar days from Feb. 23, 2026, on Mar. 19, 2026. The following counsel of record and street addresses were served (no email):

White Castle System, Inc.

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*Solicitor General of the United States*

Room 5616, Department of Justice

950 Pennsylvania Ave. N.W.

Washington, DC 20530-0001

Phone: (202) 514-2203

Pursuant to *S. Ct. Rule 29.5(c)*, I declare under penalty of perjury that the foregoing is true and correct.

Executed on Mar. 19, 2026.

Respectfully Submitted,

Michael Anthony Christopher Cochren II

*Counsel of Record*

x  \_\_\_\_\_

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**SUPREME COURT OF THE UNITED STATES**

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On Petition for a Rehearing to the Supreme Court of the United States

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**CERTIFICATION OF A PARTY UNREPRESENTED BY COUNSEL**

---

Michael Anthony Christopher Cochren II

*Counsel of Record*

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**CERTIFICATION OF A PARTY UNREPRESENTED BY COUNSEL**

I, hereby, certify that this petition for rehearing is restricted to the grounds specified in paragraph 2 of Supreme Court Rule 44; it is presented in good faith and not for delay.

Executed on Mar. 19, 2026.

Respectfully Submitted,

Michael Anthony Christopher Cochren II

*Counsel of Record*

x MC II

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