

No. 25-6639

IN THE
SUPREME COURT OF THE UNITED STATES

IN RE: DEON D. COLVIN —PETITIONER

**ON PETITION FOR A WRIT OF MANDAMUS TO THE
UNITED STATES COURT OF APPEALS FOR THE
DISTRICT OF COLUMBIA CIRCUIT**

MOTION FOR RECONSIDERATION OF THE
RULE 39.8 DISMISSAL
FILED PURSUANT TO RULE 21.1

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INTRODUCTION

Pursuant to Supreme Court Rule 21, Petitioner¹ respectfully moves the Court to reconsider its order dated March 23, 2026, denying Petitioner's IFP motion per Rule 39.8 and dismissing the Petition for Writ of Mandamus. This motion is timely filed pursuant to the instructions in the Clerk's letter dated April 22, 2026 (*see App. B*), which returned Petitioner's initial "Petition for Rehearing" for technical correction and re-titling to a motion for reconsideration. Petitioner's case has merit and should not be dismissed pursuant to Rule 39.8 because it was clerical errors and administrative failures that prevented the Court from considering a complete and accurate record, and violated my Fifth Amendment right to procedural due process.

I. The Court's Application of Rule 39.8 was Based on an Incomplete Record.

On **March 23, 2026**, this Court denied Petitioner's IFP application and dismissed the petition under **Rule 39.8**. *See App. A*. This dismissal—reserved for frivolous or malicious filings—was entered only because the Clerk's office failed to docket the Proof of Service for my **March 10 Motion for Leave to File A Second Supplemental Brief**, *see App. D*, leaving that motion appearing as improperly filed, and suppressed the evidence that proves the merits of Petitioner's claim. With respect to the latter, the Clerk's rejection of the **March 10 Motion for Judicial Notice and for Leave to Supplement the Appendix**, *see App. E*, meant the Justices never saw and considered under the doctrine of judicial notice and Fed. R. Evid. 201 (b) the

¹ Petitioner is *pro se*. The pleadings of *pro se* litigants are provided liberal construction by the Court. *Haines v. Kerner*, 404 U.S. 519, 520-521 (1972) ("allegations of the *pro se* complaint... we hold to less stringent standards than formal pleadings drafted by lawyers"); *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) ("A document filed *pro se* is to be liberally construed, and a *pro se* complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers"); *Hall v. Bellmon*, 935 F.2d 1106, 1110, n.3 (10th Cir. 1991) ("The *Haines* Rule applies to all proceedings involving a *pro se* litigant").

District Court docket entries of July 15 and 16, 2024, proving the lower court's denial of Petitioner leave to file his **June 3, 2024, Rule 59(e) motion and Supplement** (leave that Petitioner did not need), and failure to include the rulings in the record sent to the D.C. Circuit. Further, the motion contained the *full text* of Petitioner's Rule 59 (e) motions filed on **February 12, 2024, March 28, 2024, and June 3, 2024**, which showed these motions are bona fide Rule 59 (e) motions that were procedurally complete and required rulings as a matter of law.

II. The "Frivolous or Malicious" Finding is Rebutted by the Supplemental Evidence.

The evidence the Clerk failed to docket—**Proposed Supplement Appendix R, S, T, and U** of Petitioner's **March 10 Motion for Judicial Notice and for Leave to File A Supplement to the Appendix**, see App. F², which contained the District Court docket at App. R, and the full text of Petitioner's February 12, March 28, and June 3, 2024 undocketed and unadjudicated Rule 59 (e) motions at App. S, T, and U, respectively, and that *should still be in the Clerk's possession as the 10 copies submitted were not returned to the Petitioner*—demonstrates that Petitioner's right to a writ of mandamus is "clear and indisputable." Reconsideration is necessary to vacate the **Rule 39.8** designation, which was founded upon a record that was procedurally truncated by administrative error and clerical obstruction.

GROUND FOR RECONSIDERATION

III. The Clerk's Rejection Suppressed Evidence of Lower Court Procedural Failures.

On **March 10, 2026**, Petitioner filed a **Motion for Judicial Notice and for Leave to Supplement the Appendix**, received by the Clerk on **March 12**. See App. E and F. This motion was the cornerstone of the Mandamus request. It requested judicial notice of the District Court

² Appendix F contains the full text of the Rule 59 (e) motions minus the attached Exhibits, which are lengthy, that the Court should have in its possession, and Petitioner can re-file if necessary.

docket for case 1:23-cv-03485 to prove that the District Court judge refused to grant Petitioner leave to file a **Rule 59(e) motion on July 16, 2024 and Supplement for that motion on July 15, 2024**. Crucially, the District Court judge **failed to include these rulings** in the record sent to the D.C. Circuit. Furthermore, the motion included the full text of all three undocketed and unadjudicated motions (dated **February 12, 2024, March 28, 2024, and June 3, 2024**) with their Exhibits. By rejecting Petitioner's March 10 motion, the Clerk's office prevented this Court from seeing that these bona fide Rule 59 (e) motions were never docketed or adjudicated, and *why* the June 3, 2024 Rule 59 (e) motion was not docketed or adjudicated. This suppression meant the Court decided the quality of the petition (as "frivolous" or "malicious") without the very evidence of the "clear and indisputable right" required for mandamus.

IV. The Court Decided the Petition Despite a Pending Motion to Postpone.

On **March 16, 2026**, Petitioner filed a **Motion to Postpone Conference** specifically because the March 10 motions had not been docketed. Petitioner sought to postpone the conference until the supplemental materials could be properly distributed to the Justices. *See App. G*. The Clerk's office failed to docket this request, allowing the March 20 conference to proceed while the record remained defective.

V. Administrative Obstruction and Untimely Rejection.

On **March 18, at 4:19 p.m.**, a staffer informed Petitioner by phone that the **March 10 Motion for Judicial Notice and for Leave to File a Supplement to the Appendix** was rejected based on a misapplication of **Rule 15.8**. *See App. J* at 1. The motion was clearly and properly filed under Rule 21. *See App. F*. The staffer refused to provide a supervisor's name and abruptly ended the call. The Clerk's office mailed the formal rejection notice on **March 20, 2026** (the day of the conference) via a USPS box. *See App. H* and *I*. Notably, the box contained

only the original March 10 motion; the **ten additional copies** filed by Petitioner were not returned. This failure to return the full filing, combined with the timing of the mailing, confirms the administrative irregularity that prejudiced Petitioner's case.

VI. Administrative Exhaustion and Notice to the Clerk.

Petitioner made every diligent effort to notify the Court of these failures before the Court's decision. On March 19, 2026 and March 20, 2026, Petitioner phoned the clerk's office at (202) 479-3011 and deputy clerk Kyle Ratliff at (202) 479-3029 and left voice mail messages about the **incorrect rejection of the March 10 motion**, failure to docket the **Motion to Postpone Conference**, and failure to docket the Proof of Service for the **Motion for Leave to File a Second Supplemental Brief**, and requested to speak to management about the failures and have management review the rejection; Petitioner's phone calls were not returned. *See App. J.*

On **March 21, 2026**, Petitioner mailed a comprehensive letter to the **Clerk of the Supreme Court** detailing the staff's failure to (1) docket filings; (2) provide correct information regarding the docketing of filings; (3) return phone calls/emails; (4) relay phone calls to management officials; (5) have management review rejections and administrative failures in this case—and in the related case No. 25A918—as requested in voice mail messages left at the Clerk's phone number (202-479-3011) and the other clerk phone numbers (202-479-3029)(Kyle Ratliff), and (202-479-3027)(Robert Meek). *See App. K.* On March 30, 2026, Petitioner mailed an amended letter with additional evidence and claims of administrative failures, and non-docketing of critical motions. *See App. L.* Despite Petitioner providing proper proof of service to Respondents, on April 7, 2026, the Clerk's Office returned these letters on the grounds they

constituted an unauthorized “administrative complaint” (*see App. M*).³ On April 11, 2026, Petitioner re-sent this correspondence to ensure it was received by the Clerk of the Court, Scott S. Harris. *See App. N*.⁴ This letter should be a part of the Clerk’s file. However, what is not a part of the file is Petitioner’s April 12, 2026 letter to the Clerk with an attached corrected page 1 for the April 11 letter, that was hand-delivered and anonymously returned. *See App. O*. Petitioner’s declaration underscores the facts pertaining to his submissions and attempts to contact the Clerk’s office. *See App. C*.

VII. Legal Impossibility of Rule 39.8 Ruling with the Full Text of the Rule 59 (e) Motions

A Rule 39.8 dismissal for “frivolous or malicious” filing is impossible once the Court views the full text of the Rule 59 (e) motions, which include motions for leave to amend. This is because whether the Rule 59 (e) motions and motions for leave to amend are bona fide and require rulings by the District Court is the only issue this Court can judge, as Rule 15 (a) becomes activated and operational at the District Court level, and Plaintiff is allowed to “amend freely as justice so requires.” Thus, what the complaint will comprise, and by extension issues of “frivolousness” or “maliciousness,” will ultimately be determined *after* the District Court rules on the Rule 59 (e) motions, and the motions for leave to amend, and the Petitioner responds to that District Court ruling, *e.g.*, with additional amendments via a further motion (or motions) for

³ The letter also erroneously stated that further consideration by the Court of the case is not possible. The error was corrected. *See App. B*. However, the correspondence highlights one of the problems that I experienced with the Clerk’s office: incorrect information provided that serves to sabotage my litigation efforts in this Court.

⁴ Petitioner resent to the Clerk the original March 21, 2026 letter, and a corrected version of the March 30, 2026 Amended Letter, that included Exhibit 1, which Petitioner does not here include in *Appendix L* for the sake of brevity. This correspondence also included a third letter to the Clerk detailing unresponsiveness and failure to docket critical motions for case 25A918. On April 24, 2025, Petitioner was informed the letter is a part of his file, while a correction that was filed for page 1 (*see App. O*) is not a part of the file.

leave to amend, or with a Rule 60 motion, or both (a Rule 60 motion and motion for leave to amend), or none of the above; the District Court rules on that (or those) motions, and, in the event of an appeal, the D.C. Circuit Court of Appeals rules on the District Court rulings. In short, it all depends on what Petitioner submits during the future proceedings, proceedings which will be obvious to the Court should occur after the Court views the undocketed and unadjudicated Rule 59 (e) motions.

VIII. PRAYER FOR RELIEF

Petitioner respectfully requests that this Court grant the following relief:

1. **Grant Reconsideration** of the order dated March 23, 2026, and **vacate** the denial of *In Forma Pauperis* status and the dismissal under Rule 39.8;
2. **Order the Clerk** to docket and distribute the copies of Petitioner's March 10 Motion for Judicial Notice and for Leave to Supplement the Appendix for the Court's immediate review;
3. **Order the Clerk** to properly docket all of Petitioner's previously submitted filings, including those for case no. 25A918, to ensure a complete record, and to prevent manifest injustice and violation of Petitioner's Fifth Amendment right to procedural due process for the filings and Petition.
4. **Grant Leave** for Petitioner to re-submit any previously filed document that is currently missing from the docket so the Court may review in full the merits of the Mandamus request; and
5. **Grant the Petition for Writ of Mandamus, and the recall and stay of the mandate**, and direct the D.C. Circuit to send case no. 24-7016 back to the District Court for rulings on the undocketed Rule 59(e) motions, and further proceedings.

CONCLUSION

The Clerk's office effectively acted as a gatekeeper by suppressing evidence of lower court error and failing to docket a timely request for postponement. These cumulative clerical errors resulted in a defective record, leading to the erroneous dismissal under **Rule 39.8**. Reconsideration is necessary to allow the Court to review the actual **Rule 59(e) motions** and the evidence of the District Court's refusal to include its rulings in the record, and to ensure Petitioner's First Amendment right to petition the government for redress of grievances and Fifth Amendment right to a meaningful opportunity to be heard is not violated. *California Motor Transport Co. v. Trucking Unlimited*, 404 US 508, 511 (1972)("Certainly the right to petition extends to all departments in the Government. The right of access to the Courts is indeed but one aspect of the right to petition."); *Armstrong v. Manzo*, 380 US 545, 552 (1965)(A fundamental requirement of due process is "the opportunity to be heard." It is an opportunity which must be granted at a meaningful time and in a meaningful manner.")(emphasis added).

Thus, the motion should be **GRANTED**.

This motion is submitted on May 1st 2026.

Respectfully submitted,

Deon D. Colvin

Deon D. Colvin, Petitioner (*Pro Se*)