

In The Supreme Court for the Union of States in America

U.S. Sup. Ct. No. _____
U.S. 8th Cir. Ct. of App.'s No. 25-1087
U.S Dist. Ct. No. 4:23-cv-00406

In re Chad Michael Vice, Citizen of the Republic of Iowa,
In re CHAD MICHAEL VICE®, Citizen of the U.S.
Petitioner-Appellant

~VS~

Corp. STATE of IOWA, and its' subdivision The IOWA DEP'T OF CORR.'S, Dir. Beth Skinner, FORT DODGE CORRECTIONAL FACILITY, Nicholas Lamb, Dimitrius Bowens, Todd Carver, Paul Gager, Captain Anderson, Chris Stuhrenberg, Trevor Main, Steve Zdrazil, and Shawn Young, Et. Al...,
Respondents-Appellees.

DESIGNATION of APPENIX for WRIT of MANDAMUS

Comes now, Chad Michael Vice (hereinafter referred to as Vice), and hereby designates the following portions of the record as those which he intends to include in the Appendix.

Appendix-A 60 (b) – Motion – Bill of Review, July 22nd, 2025.

Appendix-B 60 (b) – Motion – Designation of Exhibits.

Appendix-C Clerk of Court—Susan E. Bindler—Letter, July 25th, 2025.

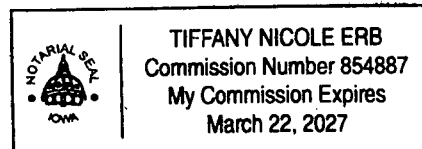
CERTIFICATE OF FILING & SERVICE

"I, the Undersigned, hereby certifies that on 27th day of October, 2025,
he did file the attached designation of appendix by placing said document in the U.S. mail and
was thus witnessed by Notary Public on 27th day of October, 2025, that the
attached appendix was served upon the Clerk of Court for the United States Supreme Court ~~at~~
~~address~~ 1 First St. N.E., Washington, D.C. 20543,

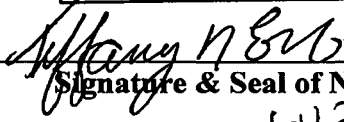
Respectfully Submitted,


Chad Michael Vice #1065118
Iowa State Penitentiary
P.O. Box 316
Fort Madison, Iowa 52627

State of Iowa County of Lee



10-27-2025
Date


Signature & Seal of Notary
10/27/25

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

**U.S. 8th Cir. Ct. of App.'s No. 25-1087
Dist. Ct. No. 4:23-cv-00406**

**Chad Michael Vice,
Petitioner-Appellant**

~vs~

**Corp. STATE of IOWA, and its' subdivision The IOWA DEP'T OF CORR.'S, Dir. Beth Skinner, FORT DODGE CORRECTIONAL FACILITY, Nicholas Lamb, Dimitrius Bowens, Todd Carver, Paul Gager, Captain Anderson, Chris Stuhrenberg, Trevor Main, Steve Zdrzil, and Shawn Young, Et. Al.,
Respondents-Appellees.**

60 (b) MOTION in SUBSTANTIVE SPIRIT of a COMMON LAW BILL of REVIEW

**Pursuant to:
Fed. R. of Civ. Pr. § § 60 (b) (1) & (6)**

JURISDICTION

That jurisdiction is conferred to the U.S. 8th Cir. Ct. of App.'s via the above-captioned. *Hale v. Ralston Purina Co.*; *United States v. Baggerly*—Rule 60 (b) does not limit the power of the Court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to grant relief to a [] not actually personally notified—432 F.2d 156 (8th Cir. 1970); 524 U.S. 38, 118 S. Ct. 1862, 141 L.Ed.2d 32 (1998); *See also: Peralta v. Heights Med. Center, Inc.*; *Des Moines v. Iowa Dist. Ct.*—Judgment entered without notice or service is Constitutionally infirm under due process clause—485 U.S. 80, 83-84, 108 S. Ct. 896, 99 L.Ed. 75, 1998 U.S. LEXIS 944 (1988); 428 N.W.2d 292 (Iowa 1990).

STATEMENT of the CASE

Nature of the Case

This Equitable Action comes before the Court by-way-of a Motion 60 (b)-Bill of Review after Chad Michael Vice (hereinafter referred to as Vice) was denied certificate of appealability in U.S. 8th Cir. Ct. of App. No. 25-1087, by a Judgment, entered on March 19th, 2025; from which decision, Vice seeks equitable relief.

Proceedings

That App. No. 25-1087 is derived from the underlying writ of habeas corpus proceeding in the U.S. Dist. Ct. for Iowa No. 4:23-cv-00406. Whereby, Vice was not served notice of denial of appealability in App. No. 25-1087 until he was furnished a letter from the 8th Cir. Ct. of App.'s – Clerk of Court – Susan E. Binder, dated May 1st, 2025, informing him that said judgment denying certificate of appealability had been made.

Vice now seeks equitable relief, from this Courts latest decision, by judgment, in denial of certificate of appealability, by the precedential authority set by the *Peralta* Court here within this Rule 60 (b) motion – in the substantive spirit of a bill of review held in part by the equitable guidelines set forth in the *Holland* Court, as declared within his statement(s) hereinabove, so to hereinbelow:

STATEMENT of the FACTS

The Merits

Vice respectfully asserts that the U.S. 8th Cir. Ct. of App.'s, has failed to serve Vice with notice of judgment denying him certificate of appealability in App. No. 25-1087. *Petro-Chemical Transp., Inc. ~vs~ Carroll*, 514 S.W.2d 240, 245-46 (Tex. 1974). Whereby, this official mistake serves as the basis for a Rule 60 (b) motion-bill of review. *Petro-Chemical*, 514 S.W.2d at 244. That Vice avers the Courts failure to serve notice of judgment has thus caused injury by denying him his fundamental due process right to access the court via Petition for Panel Rehearing pursuant to *Fed. R. of App. Pr.* § 40. That Rule 40 (a) (1) – provides that: “a petition for panel rehearing may be filed within 14 days after entry judgment.” Vice is now past the rules of court deadline to file a petition for panel rehearing in regards to the 8th Cir. Ct. of App.'s judgment in denial of certificate of appealability, whereby, Vice was entitled to this notice of judgment in denial of certificate of appealability [In Order] to satisfy his ability to exercise due diligence, in order, to be heard by petition for a panel rehearing or by petition of other post

judgment due process measures. *California Motor Transport Co. ~vs~ Trucking Unlimited*, 404 U.S. 508, 510, 92 S. Ct. 609, 30 L.Ed.2d 642 (1972) (“right of access to the Court is ... one aspect of the right of petition.”); *United Mine Workers ~vs~ Illinois State Bar Ass’n*, 389 U.S. 217, 222, 88 S. Ct. 353, 19 L.Ed.2d 426 (1967) (right to petition is among the “most precious of liberties safeguarded by the Bill of Rights”). As herein, so to hereinbelow:

The U.S. Sup. Ct. & 8th Cir. Ct. of App.’s both honor the Equitable & Essential Spirit of the Common Law Bill of Review, as a means to a corrective end for final judgments in the *Federal Rules of Civil Procedure* § 60 (b) (6) Motion, as seen in *Watkins v. Lundell*, 169 F.2d 540 (8th Cir. 1998), “a Rule 60 (b) motion, made within a ‘reasonable time,’ can provide relief from judgment ... for ‘any other reason justifying relief from the operation of the judgment,’ *Fed. R. Civ. Pr.* § 60 (b) (6), thus allowing a ... court to inject equity and revive an otherwise lifeless claim. *Cf. Klapprott v. United States*, 335 U.S. 601, 614-15, 93 L.Ed. 266, 69 S. Ct. 384 (1949) (finding that Rule 60 (b) (6) enables a court to “accomplish justice”); *Hoover v. Valley West D.M.*, 823 F.2d 227, 230 (8th Cir. 1987) (weighing the “equities involved” on a Rule 60 (b) motion).” *Watkins*, 169 F.2d at 544. As herein, so to hereinbelow:

That in Vice’s contention he relies in part on the equitable guidelines set forth in *Holland v. Florida*, 560 U.S. 631, 130 S. Ct. 2549, 177 L.Ed.2d 130 (2010) Justice – Breyer’s OPINION:

“We have said that courts of equity must be governed by rules and precedents no less than courts of law. *Lochar v. Thomas*, 517 U.S. 314, 323, 116 S. Ct. 1293, 134 L.Ed.2d 440 (1996) (Internal quotation marks omitted). But we have also made clear that often the exercise of a courts equity powers ... must be made on a case-by-case basis. *Baggett v. Bullitt*, 377 U.S. 360, 375, 84 S. Ct. 1316, 12 L.Ed.2d 377 (1964). In emphasizing the need for flexibility, for avoiding mechanical rule, *Holmberg v. Ambrecht*, 327 U.S. 392, 396, 66 S. Ct. 582, 90 L.Ed. 743 (1946), we have followed a tradition, in which courts of equity have sought to relieve hardships which, from time to time, arise from a fast adherence to more absolute legal rules, which, if strictly applied, threatens the evils of archaic rigidity, *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 248, 64 S. Ct. 997, 88 L.Ed. 1250 (1944). The flexibility inherent in equitable procedures enables courts to meet new situations [that] demand equitable intervention, and to accord all the relief necessary to correct ... particular injustices. *Ibid.* (permitting

post-deadline filing of bill of review). Taken together these cases recognize the courts of equity can and do draw upon decisions made in similar cases for guidance. Such courts exercise judgment in light of prior precedent, but with awareness of the fact that specific circumstances, often hard to predict in advance, could warrant special treatment in an appropriate case."

In this instant case, a bill of review sets the equitable precedent, insofar as authority is concerned, in apropos this 60 (b) motion. Albeit, "bills of review ... are abolished" the substantive spirit remains in the Rule 60 (b) motion as "an independent action." *United States v. Beggerly*, 524 U.S. 38 at 44-45, 118 S. Ct. 1862, 141 L.Ed.2d 32 (1998); whereby, "the new Rule thus made clear that nearly all of the old forms of obtaining relief from a judgment, i.e., ... bills of review, ... had been abolished. The revision made equally clear, however, that one of the old forms, i.e., the 'independent action,' still survived." *Beggerly*, 524 U.S. at 45. In *Hale v. Ralston Purina Co.*; *United States v. Baggerly*—Rule 60 (b) does not limit the power of the Court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to grant relief to a [] not actually personally notified—432 F.2d 156 (8th Cir. 1970); 524 U.S. 38, 118 S. Ct. 1862, 141 L.Ed.2d 32 (1998). Although this 60 (b) motion-[bill of review] is not an independent action in and of itself, its spirit is subjectively extracted ad rem its (bill of review) substantive form here within these App. No. 25-1087 Proceedings, in & by this Rule 60 (b) motion-bill of review. As herein, so to hereinbelow:

Whereupon & by, the precedential authority in this matter stems from a series of Texas Supreme Court decisions, one of which was *Petro-Chemical Transp., Inc. ~vs~ Carroll*, 514 S.W.2d 240, 245-46 (Tex. 1974). Wherein & by, an official mistake—such as failure to serve notice—serves as the basis for this 60 (b) motion-bill of review. *Petro-Chemical*, 514 S.W.2d at 244. The *Petro-Chemical Transp., Inc.* case ultimately led up to the now precedential authority of *Peralta*, insofar as well established federal law is concerned for an official mistake for failure to serve notice. *Peralta ~vs~ Heights Med. Center, Inc.*, 715 S.W.2d 721 (Tex. App.—Houston [1st Dist.] 1986, writ ref'd n.r.e.), rev'd, 485 U.S. 80, 83-84, 108 S. Ct. 896, 99 L.Ed.2d 75, 1988 U.S. LEXIS 955 (1988) (judgment entered without notice or service is constitutionally infirm under due process clause). "Only 'wip[ing] the slate clean'" will restore Vice "to the position

he would have occupied had due process of law been accorded to him in the first place.’ The Due Process Clause demands no less in this case.” *Peralta*, 487 U.S. at 87.

CONCLUSION

That due to Vice not receiving notice of judgment denying certificate of appealability he was con & subsequently denied his substantive due process right to access the court by *Fed. R. of App. Pr.* § 40. That Rule 40 (a) (1) – provides that: “a petition for panel rehearing may be filed within 14 days after entry judgment.” Vice is now past the rules of court deadline to file a petition for panel rehearing in regards to the 8th Cir. Ct. of App.’s judgment in denial of certificate of appealability; and, by this denial he reasons, that, he is therefore, entitled to reconciliatory equitable relief to accomplish justice. So to hereinbelow:

RELIEF SOUGHT

That Vice requests of this Court to “set aside its judgment” to deny certificate of appealability, entered on March 19th, 2025; and, “recall its mandate”, entered on April 14th, 2025; and, to re-issue its judgment and to serve him notice of this judgment, so as to satisfy his fundamental due process rights, and to “take such action as may be necessary and appropriate,” *Hazel-Atlas Glass Co.*, 322 U.S. at 238, in order to accomplish justice by the filing of the necessary post-judgment petition(s), or in lieu, as to hereinbelow:

That Vice alternatively requests of this Court to “set aside its judgment” to deny certificate of appealability, entered on March 19th, 2025; and, “recall its mandate”, entered on April 14th, 2025; and, would further request of this Court to reconsider its stance on certificate of appealability, by allowing Vice to take leave to file a proper application for certificate of appealability in accord with 28 U.S.C. § 2253 (c) (3), whereby, he may be able to have his meritorious issue¹ of certificate of appealability heard, *Keiser v. Bd. of Pardons & Paroles*; *Buck v. Davis*—as to the “substantial showing of” his “denial of a constitutional right. ‘28 U.S.C § 2253 (c) (2)’”—2025 U.S. Dist. LEXIS 58807 at *3 (S.D. 2025); 580 U.S. ___, 137 S. Ct. ___, 197 L.Ed.2d 1, 2017 U.S. Lexis 1429 (2017), in order to satisfy Justice.

¹ See Appeal Brief on file under 8th Cir. Ct. of App.’s No. 25-1087, in apropos meritorious issue.

NOTARIZED AFFIDAVIT

"I, the Undersigned, declare under the penalty of perjury pursuant to 28 U.S.C. § 1746, that the contents herein are true & correct to the best of my information, knowledge and belief, and that the foregoing Rule 60 (b) (6) Motion-Bill of Review was prepared by my hand and witnessed, sealed and deposited in the U.S. Mail for service upon all parties on this _____ day of _____ 2025."

Respectfully Submitted,

Chad Michael Vice #1065118
Iowa State Penitentiary
P.O. Box 316
Fort Madison, Iowa 52627

State of _____ County of _____

Date

Signature & Seal of Notary

Received	I/I	Count	Delivered	Description	City	State
05/30/2025	1065118 Vice, Chad	1	06/02/2025	Clerk of Supreme Court	Des Moines	Iowa
05/30/2025	1065118 Vice, Chad	1	06/02/2025	US Court of Appeals	St. Louis	Missouri
05/29/2025	1065118 Vice, Chad	1	05/30/2025	Clerk of District Court	Fort Madison	Iowa
05/12/2025	1065118 Vice, Chad	1	05/13/2025	Clerk of District Court	Fort Madison	Iowa
05/12/2025	1065118 Vice, Chad	1	05/13/2025	US Court of Appeals	St. Louis	Missouri
05/08/2025	1065118 Vice, Chad	1	05/09/2025	Clerk of District Court	Fort Madison	Iowa
05/05/2025	1065118 Vice, Chad	1	05/06/2025	US Court of Appeals	St. Louis	Missouri
05/02/2025	1065118 Vice, Chad	1	05/05/2025	Clerk of Supreme Court	Des Moines	Iowa
04/21/2025	1065118 Vice, Chad	1	04/22/2025	US Court of Appeals	St. Louis	Missouri
04/07/2025	1065118 Vice, Chad	1	04/08/2025	Iowa Supreme Court Att. Disp Board	Des Moines	Iowa
04/03/2025	1065118 Vice, Chad	1	04/04/2025	DOJ	Des Moines	Iowa
03/21/2025	1065118 Vice, Chad	1	03/24/2025	Clerk of Court	Fort Dodge	Iowa
03/20/2025	1065118 Vice, Chad	1	03/21/2025	Clerk of Supreme Court	Des Moines	Iowa
03/17/2025	1065118 Vice, Chad	1	03/18/2025	US District Court	Sioux City	Iowa
03/14/2025	1065118 Vice, Chad	1	03/17/2025	US Court of Appeals	St Louis	MO
03/10/2025	1065118 Vice, Chad	1	03/11/2025	Clerk of Supreme Court	Des Moines	Iowa

(Exhibit - A)
Appendix - ~~A~~ B

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

No: 25-1087

Chad M. Vice

Appellant

v.

State of Iowa, et al.

Appellees

Appeal from U.S. District Court for the Southern District of Iowa - Central
(4:23-cv-00406-RGE)

ORDER

Chad M. Vice's motion to enlarge the scope of time to file appellant's proof brief is hereby ordered taken with the case for consideration by the panel to which this case is submitted for disposition on the merits.

March 11, 2025

Order Entered Under Rule 27A(a):
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Susan E. Bindler

(Exhibit - B-1)
Appendix - B

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

No: 25-1087

Chad M. Vice

Appellant

v.

State of Iowa, et al.

Appellees

Appeal from U.S. District Court for the Southern District of Iowa - Central
(4:23-cv-00406-RGE)

MANDATE

In accordance with the judgment of March 19, 2025, and pursuant to the provisions of Federal Rule of Appellate Procedure 41(a), the formal mandate is hereby issued in the above-styled matter.

April 14, 2025

Clerk, U.S. Court of Appeals, Eighth Circuit

(Exhibit - c-1)
Appendix - B

United States Court of Appeals
For The Eighth Circuit
Thomas F. Eagleton U.S. Courthouse
111 South 10th Street, Room 24.329
St. Louis, Missouri 63102

Susan E. Bindler
Clerk of Court

VOICE (314) 244-2400
FAX (314) 244-2780
www.ca8.uscourts.gov

May 01, 2025

Chad M. Vice
IOWA STATE PENITENTIARY
1065118
P.O. Box 316
Fort Madison, IA 52627

RE: 25-1087 Chad Vice v. State of Iowa, et al

Dear Chad M. Vice:

This letter acknowledges receipt of your documents on April 29, 2025. In your Case No. 25-1087, the judgment was entered on March 19, 2025, denying your application for a certificate of appealability and denying, as moot, your motions for appointment of counsel and for an extension of time to file a brief. The mandate was issued on April 14, 2025. This court's consideration of the matter has concluded. Your case is closed, and no further action will be taken on your documents.

Susan E. Bindler
Clerk of Court

BNW

Enclosure(s)

cc: Patrick Cannon Valencia
H. Loraine Wallace

District Court/Agency Case Number(s): 4:23-cv-00406-RGE

(Exhibit - D-1)
Appendix - B

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