



No. 25A1458

IN THE SUPREME COURT OF THE UNITED STATES

JESSE-JAMES: GULLEY JR.,

Applicant,

v.

UNITED STATES OF AMERICA,

Respondent.

**EMERGENCY APPLICATION FOR A STAY OF SUPERVISED-RELEASE
WARRANT ENFORCEMENT PENDING THE FILING AND DISPOSITION
OF A PETITION FOR A WRIT OF CERTIORARI**

**TO THE HONORABLE BRETT M. KAVANAUGH, ASSOCIATE JUSTICE OF
THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE
FOR THE SIXTH CIRCUIT:**

Applicant Jesse-James: Gulley Jr., proceeding pro se, respectfully applies under Supreme Court Rule 23 for a stay of enforcement of the supervised-release warrant derived from the conviction in United States v. Gulley, No. 5:17-cr-00493 (N.D. Ohio), and of any further proceedings based on the Sixth Circuit's April 13, 2026 order denying recall of the mandate, pending the filing and disposition of a petition for a writ of certiorari.

The Sixth Circuit has refused to entertain any further motion to stay its mandate, returning Applicant's May 29, 2026 emergency stay motion "unfiled and without further action" on the ground that "no mandate will issue" from the April 13, 2026 order. Applicant therefore has no avenue in the court below to seek preservation of the status quo while preparing a certiorari petition. Active liberty deprivation continues through an outstanding supervised-release warrant that is void ab initio.

JURISDICTION

This Court has jurisdiction to review the judgment of the United States Court of Appeals for the Sixth Circuit under 28 U.S.C. §1254(1). Authority to grant a stay pending the filing and disposition of a petition for a writ of certiorari is vested in a Circuit Justice under Supreme Court Rule 23 and 28 U.S.C. §1651(a) (the All Writs Act). *Nken v. Holder*, 556 U.S. 418, 426 (2009); *Hollingsworth v. Perry*, 558 U.S. 183, 190 (2010).

The April 13, 2026 order of Circuit Judge Bush in No. 18-3577 constitutes a final order of the court of appeals for purposes of §1254(1) because it definitively denied all pending recall-of-mandate and sanctions relief, leaving Applicant with no further remedy in the court below. Cf. *Calderon v. Thompson*, 523 U.S. 538, 549 (1998). The Sixth Circuit's June 2, 2026 refusal to accept any further motion to stay confirms exhaustion of all lower-court remedies. Preserving the status quo pending certiorari is essential to prevent irreparable liberty deprivation before this Court can consider the petition.

QUESTIONS PRESENTED

1. Whether a court of appeals may, consistent with Federal Rule of Appellate Procedure 27(c) and this Court's decisions in *Calderon v. Thompson*, 523 U.S. 538 (1998), and *Patterson v. Haskins*, 470 F.3d 645 (6th Cir. 2006), authorize a single circuit judge to finally deny a motion to recall the mandate and a separate sanctions motion after the court has granted supplementation of the record with new FOIA evidence the original three-judge merits panel never evaluated.

2. Whether a court of appeals violates *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944), *Demjanjuk v. Petrovsky*, 10 F.3d 338 (6th Cir. 1993), and this Court's fraud-on-the-court jurisprudence when it (a) grants supplementation with FOIA evidence proving no arrest warrant was properly filed, (b) receives a government brief that both acknowledges that defect and relies on a prior order premised on the opposite representation, and (c) denies recall of the mandate based solely on delay and prior consideration without addressing the fraud.

3. Whether a guilty plea can waive a structural jurisdictional defect where the government's misrepresentation of a non-existent arrest warrant induced the plea, contrary to *Blackledge v. Perry*, 417 U.S. 21 (1974), and *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83 (1998).

STATEMENT OF THE CASE

On December 5, 2017, a grand jury indicted Applicant in the Northern District of Ohio. Magistrate Judge Baughman purportedly issued an arrest warrant under Fed. R. Crim. P. 9. At the December 7, 2017 arraignment (Appendix I), no officer verified the warrant's existence, filing, or return. Doc. 109, PageID 665. A pre-prepared

detention waiver (Appendix I) was presented before the hearing commenced. The Magistrate relied solely on the government's representation of a valid arrest warrant under Federal Rule 9, 4, and Title 18 U.S.C. §§ 3041–3142 and Applicant was immediately remanded to the custody of the United States Marshals. In March 2018 Applicant pleaded guilty to felon in possession and was sentenced to 48 months plus three years of supervised release. The Sixth Circuit affirmed. *United States v. Gulley*, 780 F. App'x 275 (6th Cir. 2019).

On September 11, 2020, Applicant challenged jurisdiction on the ground no valid warrant was ever filed or returned (Appendix E). On June 14, 2021, District Judge Gwin denied the motion to dismiss, asserting the warrant existed — relying solely on the government's representation with no warrant in the record (Appendix E).

Supervised release commenced April 29, 2022 and was scheduled to terminate April 29, 2025. On September 9, 2022, Mag. Judge Knapp issued SRV warrant Doc. 161. On November 16, 2022, Applicant was arrested and the Return on Doc. 161 was completed by L. Conyers/USMS (Appendix H). On November 21, 2022, Judge Gwin dismissed all supervised release violations (Appendix H). After Judge Gwin's recusal, the government filed a summons (Doc. 169, January 17, 2024) that expired without execution (Appendix H), then refiled the identical warrant as Doc. 176 (Appendix H), filed March 11, 2024, bearing the same Return showing the November 16, 2022 arrest — surrender on Doc. 176 is constitutionally impossible because its own Return proves the arrest already occurred. In February 2025, FOIA Request No. 2025-USMS-FOIA/PA-000196 produced the original Rule 9 warrant bearing no clerk's file stamp, no docket number, and a blank Return — never filed, never returned (Appendix D).

On August 18, 2025, a three-judge panel (Clay, McKeague, Thapar, JJ.) granted supplementation of the appellate record under FRAP 10(e)(2)(C) with the FOIA warrant evidence (Appendix G). On September 18, 2025, Applicant moved to recall the mandate (Appendix F). On April 13, 2026, Circuit Judge John K. Bush, acting alone without Judges Griffin and White, denied all motions in a single paragraph (Appendix A), invoking delay, prior consideration, and guilty plea waiver — without addressing *Hazel-Atlas*, *Demjanjuk*, *Blackledge v. Perry*, *Steel Co.*, or 28 U.S.C. §1927. On March 27, 2026, Applicant filed Doc. 186 seeking leave to bring a Rule 60(d)(3) fraud-on-the-court motion; Judge Polster denied leave without reaching the merits (Appendix B). On June 2, 2026, the Sixth Circuit returned Applicant’s emergency stay motion unfiled (Appendix C). All lower-court remedies are exhausted.

REASONS FOR GRANTING THE APPLICATION

I. THERE IS A REASONABLE PROBABILITY THAT CERTIORARI WILL BE GRANTED AND A FAIR PROSPECT OF REVERSAL.

The certiorari petition will present three questions of substantial importance. First, whether FRAP 27(c) permits a single circuit judge to finally deny a recall-of-mandate motion and a sanctions motion after a three-judge panel has taken formal action by granting supplementation under FRAP 10(e)(2)(C). Second, whether *Hazel-Atlas* and *Demjanjuk* require a court of appeals to engage with FOIA evidence — placed in the record by the court’s own supplementation order — that directly contradicts the jurisdictional premise on which its prior judgment rested. Third, whether a guilty plea waives a structural defect in process where the government’s misrepresentation of a non-existent warrant induced the plea.

Each question is substantial. The government’s own brief (Appendix F, Doc. 39, p. 3) conceded that the FOIA materials showed “an arrest warrant was never filed with the clerk of the district court,” while simultaneously arguing (p. 6) that the claim had already been adjudicated — based on a 2021 order entered four years before the FOIA evidence existed. The April 13 order (Appendix A) adopted that formulation verbatim without independent analysis, without engaging the supplemented record, and without addressing any of Applicant’s cited authorities. That is the precise pattern *Hazel-Atlas* condemns. A single judge’s dismissal of the resulting recall motion, after a panel had formally altered the record, presents a clear FRAP 27(c) violation. These are serious, non-frivolous questions warranting certiorari.

II. IRREPARABLE HARM IS CERTAIN AND IMMEDIATE.

Applicant faces arrest and detention under a warrant that is constitutionally and factually defective on its face. The harm is not speculative — it is ongoing and will become irreparable the moment Applicant is taken into custody.

1. **The supervised-release term has expired by operation of law.** Supervised release commenced April 29, 2022 and was scheduled to terminate April 29, 2025. The docket reflects no order validly extending that term under 18 U.S.C. §3583(e)(2), which requires a court order supported by a valid warrant or summons filed before the termination date. Applicant has been subject to court-imposed supervised release conditions for thirteen months past the statutory termination date with no lawful extension order in the record. Continued enforcement of supervision and its associated warrant is itself unlawful. Under *United States v. Vargas-Amaya*, 389 F.3d 901, 905–06 (9th Cir. 2004), a court

retains jurisdiction to revoke supervised release only if a warrant is both issued and executed before the supervision term expires. No warrant satisfying that requirement exists in this record. The supervised-release term expired April 29, 2025 by operation of law, and no jurisdiction to enforce it survived that date.

2. The active warrant is a duplicate of an already-executed warrant. Doc. 176 (Appendix H) — the warrant currently being enforced — is a photocopy of Doc. 161, refiled March 11, 2024, with an altered file date. Its own Return section reproduces the identical arrest data from Doc. 161: L. Conyers/USMS, November 16, 2022. The Fourth Amendment does not permit arrest on a warrant whose Return proves it has already been executed. Judge Gwin dismissed the underlying supervised release violations on November 21, 2022 (Appendix H) — the day after the arrest. The warrant that produced that arrest, and all proceedings flowing from it, were resolved. The government’s March 2024 refiling of the identical instrument with a fraudulently altered date cannot revive it. *Vargas-Amaya* is directly on point: once a supervised-release warrant is executed and the underlying violation dismissed, the warrant is *functus officio* and cannot be refiled to resurrect lapsed jurisdiction. 389 F.3d at 905. Doc. 176 — filed sixteen months after Doc. 161 was executed and dismissed — has no independent legal force and is void on its face.

3. The underlying conviction rests on a warrant that was never filed. FOIA Request No. 2025-USMS-FOIA/PA-000196 produced the original Rule 9 warrant bearing no clerk’s file stamp, no docket number, and a blank Return (Appendix D). The Rule 9 warrant is the foundational jurisdictional document. A court cannot acquire personal jurisdiction over a defendant through a warrant that was never

filed with the clerk, never entered in the docket, and never returned after execution. Every supervised-release proceeding — including the current warrant — derives from and depends upon that jurisdictionally void conviction.

4. **No adequate remedy exists after arrest.** If Applicant is arrested before this Court acts on the certiorari petition, the loss of liberty will be irreparable. No subsequent ruling can restore the period of unlawful custody. The harm is qualitatively different from financial injury — it is the deprivation of the fundamental right to physical liberty pending review of claims that go to the court’s power to have acted at all.

III. THE BALANCE OF EQUITIES AND PUBLIC INTEREST FAVOR A STAY.

A stay imposes minimal burden on the government. The supervised-release term has already expired; the government has extensively litigated these issues; and a brief pause while this Court considers the certiorari petition preserves rather than disrupts the status quo. The government cannot claim prejudice from a temporary stay of enforcement of a warrant whose own Return proves it was already executed.

The public interest strongly favors a stay. The integrity of the federal judicial process depends on courts not proceeding on jurisdictional fictions. As this Court recognized in *Berger v. United States*, 295 U.S. 78, 88 (1935), the government’s duty is not to win but to ensure justice is done. Sanctioning the enforcement of a warrant derived from a conviction built on a warrant that was never filed — while a certiorari petition raising that precise issue is being prepared — would undermine public confidence in the administration of criminal justice. Rule 60(d)(3) preserves the power

to set aside judgments procured by fraud on the court with no time limit. *Hazel-Atlas*, 322 U.S. at 244–45. That power should not be mooted by arrest before this Court can act.

CONCLUSION

For the foregoing reasons, Applicant respectfully requests that the Circuit Justice:

1. Enter a stay preventing enforcement of the supervised-release warrant derived from the conviction in *United States v. Gulley*, No. 5:17-cr-00493 (N.D. Ohio), and any further proceedings based on the Sixth Circuit’s April 13, 2026 order, pending the filing and disposition of a timely petition for a writ of certiorari;
2. Refer the matter of sanctions against AUSA Daniel R. Ranke to the Sixth Circuit for proceedings under 28 U.S.C. §1927 and the court’s inherent sanctioning power, based on the self-contradictory brief (Appendix F, Doc. 39) that on page 3 acknowledges FOIA evidence proves no arrest warrant was ever filed and on page 6 argues the claim was already adjudicated based on a 2021 ruling; and
3. Grant such other and further relief as may be just and appropriate to preserve this Court’s jurisdiction.

Respectfully submitted,



Jesse-James: Gulley Jr.

Applicant, pro se
2713 Wood Owl St. N.E.
Canton, Ohio 44704

IN THE SUPREME COURT OF THE UNITED STATES

JESSE-JAMES GULLEY JR.,)
)
Petitioner,)
) Sixth Circuit Case No. 18-3577
v.)
) N.D. Ohio Case No. 5:17-cr-00493
UNITED STATES OF AMERICA,)
)
Respondent.)

CERTIFICATE OF SERVICE

I, Jesse-James Gulley Jr., proceeding pro se, hereby certify that on June 12, 2026, I caused true and correct copies of the foregoing Emergency Application for Stay of Mandate Pursuant to Supreme Court Rule 23, together with all appendices and exhibits thereto, to be served upon the following parties by depositing the same in the United States Mail, first-class postage prepaid, addressed as follows:

1. Clerk of the Supreme Court of the United States
Office of the Clerk
Supreme Court of the United States
1 First Street, N.E.
Washington, D.C. 20543
2. Solicitor General of the United States
Office of the Solicitor General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001
(Counsel for Respondent United States of America)
3. Daniel R. Ranke, Assistant United States Attorney
Appellate Counsel of Record for Respondent
Office of the United States Attorney
Northern District of Ohio
801 West Superior Avenue, Suite 400
Cleveland, Ohio 44113

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 12, 2026.

A handwritten signature in cursive script, reading "Jesse J. Gulley", is written over a horizontal line.

JESSE-JAMES GULLEY JR., Pro Se

2713 Wood Owl St. N.E.

Canton, Ohio 44704

CERTIFICATE OF COMPLIANCE

As required by Supreme Court Rule 33.2(b), I certify that the foregoing Emergency Application for a Stay of Supervised-Release Warrant Enforcement Pending the Filing and Disposition of a Petition for a Writ of Certiorari is 10 pages long, excluding the parts of the document that are exempted by Supreme Court Rule 33.1(d).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 15, 2026.



s/ Jesse-James Gulley Jr.

Applicant, Pro Se

2713 Wood Owl St. N.E.

Canton, Ohio 44704

IN THE SUPREME COURT OF THE UNITED STATES

No. _____

JESSE-JAMES: GULLEY JR.,

Applicant,

v.

UNITED STATES OF AMERICA,

Respondent.

APPENDIX A

Order Denying Motion to Recall Mandate, Motion for Sanctions, and Motion to Expedite

United States Court of Appeals for the Sixth Circuit, Case No. 18-3577, Doc. 43-1, April 13, 2026 (Circuit Judge John K. Bush, acting as single judge) [Order Under Review]

NOTE TO CLERK OF THE SUPREME COURT:

This is the Order Under Review. Circuit Judge Bush denied Applicant's Motion to Recall the Mandate (Doc. 38, Appendix F), Applicant's Motion for Sanctions (Doc. 41, Appendix F), and Motion to Expedite without addressing any of the controlling authorities cited in Applicant's Motion to Recall the Mandate (Doc. 38, Appendix F), Applicant's Reply (Doc. 40, Appendix F), or Applicant's Sanctions Motion (Doc. 41, Appendix F); without ordering the Government to produce or verify the foundational jurisdictional document — the arrest warrant — and without acknowledging that the Government's own certified FOIA records, admitted into the official appellate record thirty-nine days before this order was entered, prove the warrant was never filed, signed, or returned. The order is challenged on two grounds. First, it is the direct product of fraud on the appellate court — proven by the Government's own brief (Appendix F, Doc. 39), which accurately describes on page 3 the FOIA evidence proving the arrest warrant was never filed, and then argues on page 6 that the district court already considered and rejected that claim based on a 2021 ruling entered four years before the FOIA evidence existed. Judge Bush reproduced Ranke's page 6 framing verbatim on page 2 of this order without independent analysis, without engaging the FOIA evidence, and without acknowledging the four-year gap. Under *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944), a

No. 18-3577

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Apr 13, 2026
KELLY L. STEPHENS, Clerk

UNITED STATES OF AMERICA,)
)
Plaintiff-Appellee,)
)
v.)
)
JESSE JAMES GULLEY, JR.,)
)
Defendant-Appellant.)

ORDER

Before: BUSH, Circuit Judge.

This court affirmed Jesse James Gulley, Jr.’s conviction, following a guilty plea, for possession of a firearm and ammunition by a convicted felon. *See United States v. Gulley*, 780 F. App’x 275 (6th Cir. 2019) (Griffin, White, & Bush, JJ.). Gulley now moves to recall the mandate, asserting that his conviction is void because a valid arrest warrant for him was never issued, filed, or returned, in violation of the Federal Rules of Criminal Procedure. He also moves to issue sanctions, based on the government repeatedly misrepresenting the existence of a valid arrest warrant, and to expedite a ruling on his motion to recall the mandate. The government opposes the motion to recall the mandate.

The court has the inherent authority to recall its mandate. *Patterson v. Haskins*, 470 F.3d 645, 661–62 (6th Cir. 2006). The power to recall the mandate, however, should “be exercised only in extraordinary circumstances,” and “is one of last resort, to be held in reserve against grave, unforeseen contingencies.” *Calderon v. Thompson*, 523 U.S. 538, 550 (1998). Consequently, the

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party seeking to recall a mandate must show exceptional circumstances that override the strong public policy in favor of the finality of judgments. *See United States v. Saikaly*, 424 F.3d 514, 517 (6th Cir. 2005) (order). Because the court must balance the concern for finality against any extraordinary circumstance asserted in support of the motion, the length of time between the issuance of the mandate and the motion to recall is material. *Patterson*, 470 F.3d at 663–64. And, in a criminal action, the court also considers “the statutory and jurisprudential limits applicable in habeas corpus cases.” *Calderon*, 523 U.S. at 553.

Gulley’s six-year-long delay in seeking to recall the mandate counsels against its grant. More importantly, Gulley’s motion is based on perceived errors that have been considered and rejected by the district court, and recalling the mandate would permit him to evade the procedural bars in 28 U.S.C. § 2244(b) by seeking to recall the mandate rather than move for authorization to file a second or successive motion to vacate. *Cf. Saikaly*, 424 F.3d at 517 (noting “that the proper remedy to attack a sentence in a final criminal proceeding lies under [28 U.S.C.] § 2255, and the fact that such remedy is no longer available does not warrant a recall of the mandate”). And, regardless, he is not entitled to relief. *See United States v. Andreas*, 458 F.2d 491, 492 (8th Cir. 1972) (holding that the defendant waived the right to challenge his conviction on this basis following trial and that, “in any event, the trial court had jurisdiction over his person”).

Therefore, the motions to recall the mandate and to issue sanctions are **DENIED**, and the motion to expedite is **DENIED AS MOOT**.

ENTERED BY ORDER OF THE COURT



Kelly L. Stephens, Clerk

United States Court of Appeals for the Sixth Circuit

U.S. Mail Notice of Docket Activity

The following transaction was filed on 04/13/2026.

Case Name: USA v. Jesse Gulley Jr.

Case Number: 18-3577

Docket Text:

ORDER filed: The motions to recall the mandate and to issue sanctions are DENIED [7412195-2] [7419299-2], and the motion to expedite is DENIED AS MOOT [7461432-2]. John K. Bush, Circuit Judge.

The following document(s) are associated with this transaction:

Document Description: Order

Notice will be sent to:

Mr. Jesse James Gulley Jr.
2731 Wood Owl Street N.E.
Canton, OH 44704

A copy of this notice will be issued to:

Mr. Christian J. Grostic
Ms. Sandy Opacich
Mr. Daniel R. Ranke

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