

25A-_____

**In The
Supreme Court of the United States**

October Term 2025

**Freddie L. Byers, III,
*Applicant/Petitioner,***

v.

**State of Indiana
*Respondent.***

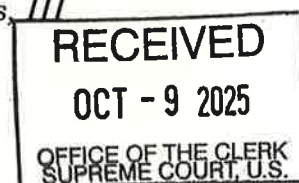
**Application for an Extension of Time within Which to File a Petition for a
Writ of Certiorari to the Indiana Court of Appeals**

**APPLICATION TO THE HONORABLE AMY CONEY BARRETT, AS
JUSTICE FOR THE UNITED STATES COURT OF APPEALS FOR THE
SEVENTH CIRCUIT**

Freddie L. Byers, III
D.O.C. 984357
Pendleton Correctional Facility
4490 West Reformatory Road
Pendleton, Indiana 46064

September 30, 2025

pro-se Applicant / Petitioner
Freddie L. Byers, III



I. APPLICATION FOR EXTENSION OF TIME

1. Pursuant to this Honorable Court's *Rule 13.5* and *28 U.S.C. § 2101(c)*, *Applicant Freddie L. Byers, III*¹ hereby requests a sixty (60) day extension of time within which to file a *Petition for a Writ of certiorari*, up to and including the end of the day on December 29, 2025.²

II. JUDGMENT FOR WHICH REVIEW IS SOUGHT

2. The *Judgment* for which review is sought is in the following Indiana State Supreme Court, *to wit: State of Indiana on the relation of Freddie L. Byers, III v. The St. Joseph County Indiana Superior Court, and the Honorable Christopher Fronk, as Judge thereof, and the Honorable Amy Rolfes, as Clerk thereof*, No. 25S-OR-144,³ *Order*, dated July 21, 2025;⁴ that dismissed *Applicant Byers' Document, to wit: Petition for Writ of mandamus*; requesting the Indiana Supreme Court to intervene in the *Respondent Court*, and force the rendering of a *Final and Appealable Judgment*

¹ Hereinafter [***Applicant Byers***].

² This is the next business day, as the actual sixtieth (60th) day is December 28, 2025—a Sunday. As such this makes December 29, 2025 the sixtieth—and final day—for extension for the filing of a *Petition for Writ of certiorari* in this Honorable Court. See *Rule 30.1 of the United States Supreme Court* (In the computation of any period of time prescribed or allowed by these Rules, by order of the Court, or by an applicable statute, the day of the act, event, or default from which the designated period begins to run is not included. The last day of the period shall be included, unless it is a Saturday, Sunday, federal legal holiday listed in *5 U.S.C. § 6103*, or day on which the Court building is closed by order of the Court or the Chief Justice, in which event the period shall extend until the end of the next day that is not a Saturday, Sunday, federal legal holiday, or day on which the Court building is closed).

³ Hereinafter [***OR-144***].

⁴ Hereinafter [***Dismissal Order***]. *Applicant Byers* hereby attaches a true and correct copy of that *Main Opinion* hereto, and designates such as follows, *to wit: [EXHIBIT B, p. 1]*. Such is not Reported in the *Official Reporter of Record* for the Indiana Supreme Court, Court of Appeals, and Tax Court, *to wit: Northeastern Reporter, 3d Series*, at, *to wit: State ex Rel Freddie L. Byers, III v. St. Joseph Superior Court, et al.*, No. 25S-OR-144, *Unpublished Order* (Ind. App. July 21, 2025).

by the *Respondent Court* therein, to wit: *St. Joseph County Indiana Superior Court*;⁵ the *Honorable Christopher Fronk*, as *Judge thereof*;⁶ concerning a Statutory Proceeding, to wit: *Verified Motion for Order to Compel Delivery of Money or Papers*;⁷

⁵ Hereinafter [*“Respondent Court”*].

⁶ Hereinafter [*“Respondent Court Judge”*].

⁷ Hereinafter [*“Motion to Compel”*]. This *Motion to Compel* was invoked pursuant to the *Statutory Remedy* provided for by the Indiana General Assembly in a duly enacted Statute by, to wit: *Indiana Code § 33-43-1-9*; intended to protect the *Property Rights* of Clients from their Attorneys. See *Pigg v. State*, 929 N.E.2d 799 (Ind. App. 2010), *trans denied by Pigg v. State*, 940 N.E.2d 826 (Ind. 2010); where the Court said in relevant part, to wit:

Patently, *Indiana Code section 33-43-1-9* protects the property rights of clients to the tangible product of their representation (i.e. the “papers”) and to the portion of money which they pay to attorneys which is ultimately not earned. The law prevents clients from having to file independent lawsuits in contract or *quasi-contract* in order to obtain what is rightfully theirs. Thus, by providing an opportunity for recourse in our courts, *Indiana Code 33-43-1-9* has made the determination of whether to grant or deny a motion for delivery of papers or money from an attorney in a state action, making such a determination subject to due process considerations. “The *Due Process Clause* of the *United States Constitution* and the *Due Course of Law Clause* of the *Indiana Constitution* prohibit state action which deprives a person of life, liberty, or property without the ‘process’ or ‘course of law’ that is due, that is, a fair proceeding.” *In re Adoption of L.D.*, 921 N.E.2d 867, 876 (Ind. Ct. App. 2010). “An essential principle of due process is that a deprivation of life, liberty, or property be preceded by notice and opportunity for hearing appropriate to the nature of the case.” *Id.* (quoting *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542, 105 S. Ct. 1487, 84 L. Ed. 2d 494 (1985)). Once it is determined that the *Due Process Clause* applies, “the question remains what process is due.” *Cleveland Bd. of Educ.*, 470 U.S. at 541 (quoting *Morrissey v. Brewer*, 408 U.S. 471, 481, 92 S. Ct. 2593, 2600, 33 L. Ed. 2d 484 (1972)). Due process which comports with the *Fourteenth Amendment* in civil proceedings is a flexible concept which entitles litigants to a full and fair opportunity to litigate their claim. See *Kremer v. Chemical Const. Corp.*, 456 U.S. 461, 480, 102 S. Ct. 1883, 72 L. Ed. 2d 262 (1982).

Id., at 803. At bottom, *Pigg, supra*, stands for the proposition that *I.C. § 33-43-1-9* gives a *Client* of an Attorney a State created *Property Right* to which they are entitled. cf *Wilhoite v. Melvin Simon & Associates*, 640 N.E.2d 382, 384-387 nn. 2-3 (Ind. App. 1994) (Collecting and discussing this Honorable Courts Precedents and Indiana Supreme Court Precedents regarding the analysis relevant to determining *Due Process* protections for *Property* and *Liberty Interests* under the *United States* and *Indiana Constitutions*). While *Pigg, supra*, doesn’t enter into the *Liberty Interest* Argument presented by such a Statute; especially when such regards such files necessary in a putative Court Proceeding; making such relevant to a *Liberty Interest*; Applicant Byers opines such implicates Substantive Rights of Liberty, whether under the *First Amendments Right to Petition for Redress*; the *Sixth Amendments Right of Access to the Courts*; or the *Fourteenth Amendments Due Process and Equal Protection Components*. What is more, the only *Remedy* in such a situation is by way of a *Petition for Writ of mandamus* to the Indiana Supreme Court where a *Respondent Court* fails to enter *Judgment*. See, e.g.

or in the alternative, have such withdrawn from the *Respondent Court* by the *Respondent Clerk*, to wit: the Honorable Amy Rolfes, as Clerk thereof;⁸ pursuant to Rule 53.1 of the Indiana Rules of Trial Procedure, entitled as follows, to wit: *praecipe for Withdrawal of Verified Motion for Order to Compel Delivery of Money*.⁹

III. DOCUMENTS IN SUPPORT OF APPLICATION

Chissell v. State, 705 N.E.2d 501 (Ind. App. 1999), where the Indiana Court of Appeals said in relevant part, to wit:

Further, a party cannot appeal from the failure of a trial court to enter judgment. *State ex rel. [Maines] v. Scott Circuit Court*, 203 Ind. 572, 576-77, 181 N.E. 523, 524 (1932). The only available remedy is a writ of *mandamus*. *Id.* Our supreme court has exclusive, original jurisdiction over actions for writs of *mandamus* against inferior state courts based on the alleged failure of the respondent court to act when it was under a duty to act, in this case to compel the trial court to comply with *Indiana Code 35-38-1-1(a)*. *Ind. Original Action Rules 1(A), (B) and 2(A)*; *Ind. Appellate Rule 4(A) (5)*. Thus, we have no authority to instruct the trial court to enter judgments on the jury verdicts and must dismiss the State's prayer for relief.

Chissell, 705 N.E.2d at 506. See also *State ex rel. Randolph v. Hancock Circuit Court et al.*, 243 Ind. 156, 160-161; 182 N.E.2d 248, 250 (1962) *reh'g denied* (citing *State ex rel Maines, supra*); *Grant Coal Mining Co. v. Coleman*, 204 Ind. 122, 131, 179 N.E. 778, 781 (1932); *State ex rel. Neal v. Beal*, 185 Ind. 192, 203-204, 113 N.E. 225, 228 (1916) (applying *mandamus Rules* to a Board of Public Works); *State ex rel. Clark v. Rice*, 113 Ind. App. 238, 244, 47 N.E.2d 849, 851 (1943) (Applying *mandamus* to *Respondent Court* for failing to enter *Final Appealable Judgment*); *Pittman-Rice Coal Co. v. Hansen*, 117 Ind. App. 508, 512, 72 N.E.2d 364, 366 (1947) (Applying *mandamus* to *Respondent Court* to grant *Motion for New Trial*). This Rule in *Chissell, supra* is material to this instant *Application* insofar as it shows arguable merit to proceed by *Petition for certiorari* in this Honorable Court from the outset, as the only means of correction of the *Respondent Court's* denial of *Applicant Byers' Property Right* under I.C. § 33-43-1-9 is an *Original Action Proceeding* in the Indiana Supreme Court pursuant to the *Indiana Rules of Procedure for Original Actions*, and any denial or dismissal of such leaves this Honorable Court the *only* option to vindicate such vested *Property Right* of *Applicant Byers*.

⁸ Hereinafter [**“Respondent Clerk”**].

⁹ Hereinafter [**“praecipe”**]. This *Procedural Mechanism* was specifically invoked through Rule 53.1 of the *Indiana Rules of Trial Procedure*. See, e.g., *State ex rel Koppe v. Cass Circuit Court*, 723 N.E.2d 866 (Ind. 2000) (implying *Respondent Court Clerks* are amenable to *Original Actions* under failure to comply with Rule 53.1 of the *Indiana Rules of Trial Procedure*); *State ex rel Thoe v. Marion Superior Court 5*, Cause No. 25S-OR-90, 260 N.E.3d 882, 883-887, *Slip-Opinion*, at pp. ____-____, ¶¶ ____-____ (Ind. June 13, 2025) (An *Original Action* is the appropriate means of enforcing Rule 53.1 of the *Indiana Rules of Trial Procedure*).

3. In support of this instant *Application*, *Applicant Byers* attaches a true and correct Copy of the following *Documents*, and hereby incorporates such herein, in their entirety, and by reference, *to wit*:

- A. *Briefing Order, State of Indiana ex rel Freddie L. Byers, III*, No. 25S-OR-144 [EXHIBIT – A];
- B. *Dismissal Order State of Indiana ex rel Freddie L. Byers, III*, No. 25S-OR-144 [EXHIBIT – B];
- C. *Mootness Order, State of Indiana ex rel Freddie L. Byers, III*, No. 25S-OR-144 [EXHIBIT – C];
- D. *Chronological Case Summary, State of Indiana v. Freddie L. Byers, III*, No. 71D04-9701-CF-59 [EXHIBIT – D];¹⁰
- E. *Chronological Case Summary, State of Indiana ex rel Freddie L. Byers, III*, No. 25S-OR-144 [EXHIBIT – E];¹¹

and are hereby attached hereto as the following, *to wit*: *Application for an Extension of Time within Which to File a Petition for a Writ of Certiorari to the Indiana Court of Appeals*.

IV. JURISDICTION

- 4. On May 20, 2024, the *Respondent Clerk* opened CF-59 as a new filing.¹²
- 5. On June 21, 2024, *Applicant Byers* filed the following *Document*, with the *Respondent Clerk*, in the CF-59 Cause, *to wit*:

¹⁰ Hereinafter [“CCS – CF-59”].

¹¹ Hereinafter [“CCS – OR-144”].

¹² In actuality, this “new filing” designation stems from a transfer Order by the Respondent Court, which transferred such from the following Court, *to wit*: *State of Indiana v. Freddie L. Byers, III*, No. 71D01-9701-CF-59. Hereinafter [“CF-59 P”].

A. *Verified Motion for Access to Court Records*.¹³

6. The *Access Motion* did not invoke the *Respondent Court's General Subject Matter Jurisdiction*, pursuant to *Indiana Code § 33-29-1-1.5*, as such was submitted in accord with *Rule 2 (b) (4) of the Indiana Rules of Access to Records*; the *Access Motion* merely sought the Trial Court's *Supervisory and Ministerial Authority* in providing *Documents* that were deemed confidential under the *Rule 9 of the Indiana Administrative Rules*.¹⁴

7. On July 2, 2024, *Applicant Byers* filed the following *Documents*, with the *Respondent Clerk*, in the *CF-59 Cause*, to wit:

A. *Cover Letter to Respondent Clerk*, Dated June 21, 2024;¹⁵

B. *Verified Motion for Order to Compel Delivery of Money or Papers*.¹⁶

8. The *Motion to Compel* invoked the *Respondent Court's General Subject Matter Jurisdiction*, pursuant to *I.C. § 33-29-1-1.5* and *I.C. § 33-43-1-9*.

¹³ Hereinafter [**"Access Motion"**]. The June 21, 2014 date reflects the file-stamped date on the face of the *Access Motion*. *Applicant Byers* notes this date, as the actual date of execution and mailing—pursuant to the *Indiana Prison Mailbox Rule* in *Dowell v. State*, 922 N.E.2d 605, 607-08 (Ind. 2010)—was June 7, 2025.

¹⁴ *Applicant Byers* has researched the *Indiana Rules of Access to Court Records*, and has not found any right to appeal any action (or inaction) by the *Respondent Court*, should it deny such requested access to any person—let alone a Criminal Defendant (such as *Applicant Byers*) in *CF-59*. What is more, the *Indiana Rules of Access to Court Records* provide only a mode of "Sanction" on "Counsel and/or a Party" to *CF-59* under *Rule 11 of the Indiana Rules of Access to Court Records*. As such, this might create a *Final Appealable Judgment* under *Rule 9* and *Rule 14 of the Indiana Rules of Appellate Procedure*. Additionally, *Rule 1* and *2* of the *Indiana Rules of Access to Court Records* replaced *Rule 9 of the Indiana Administrative Rules*.

¹⁵ Hereinafter [**"Cover Letter I"**].

¹⁶ Hereinafter [**"Motion to Compel"**]. The July 2, 2025 date reflects the file-stamped date on the face of the *Cover Letter* and *Notice to Court*. *Applicant Byers* notes this date, as the actual date of execution and mailing—pursuant to the *Indiana Prison Mailbox Rule* in *Dowell v. State*, 922 N.E.2d 605, 607-608 (Ind. 2010)—was June 26, 2025.

9. On July 8, 2024, *Applicant Byers* filed the following *Documents*, with the *Respondent Clerk*, in the *CF-59 Cause*, to wit:

- A. *Cover Letter to Respondent Clerk*, Dated June 26, 2024;¹⁷
- B. *Verified Notice to Court of Verified Request for Production of Prosecuting Attorney File or in the Alternative Assess Cost for Reproduction*.¹⁸

10. On July 8, 2024, The *Respondent Clerk* incorrectly entered the *Cover Letter* and the *Notice to Court* as a *Motion*. See *CCS – CF-59 [EXHIBIT – D, p. 2]* (July 8, 2024 *Entry* in *CF-59*).¹⁹

11. On July 18, 2024, the *Respondent Court*, by way of an *Administrative Event Entry* made by the *Respondent Clerk*, states the following, to wit:

“Court receives correspondence from Defendant. No Action Required.”

See *CCS – CF-59 [EXHIBIT - D, p. 2, July 18, 2025 Entry]*.²⁰

12. On December 27, 2024, *Applicant Byers* filed the following *Documents* with the *Respondent Clerk*, to wit:

- A. *praecipe for Withdrawal of Verified Motion for Order to Compel Delivery of Money*;²¹ and
- B. *Appendix in Support of praecipe for Withdrawal of Verified Motion for Order to Compel Delivery of Money*.²²

¹⁷ Hereinafter [*“Cover Letter II”*].

¹⁸ Hereinafter [*“Notice to Court”*]. The July 8, 2025 date reflects the file-stamped date on the face of the *Cover Letter* and *Notice to Court*. *Application Byers* notes this date, as the actual date of execution and mailing—pursuant to the *Indiana Prison Mailbox Rule* in *Dowell v. State*, 922 N.E.2d 605, 607-08 (Ind. 2010)—was June 26, 2025.

¹⁹ This *Entry* was erroneous, and led to the cascade of error by the Indiana Supreme Court as stated in the *Dismissal Order [EXHIBIT - B]*; *Mootness Order [EXHIBIT – C]*; and [*Instant Application pp. 8-9, ¶¶ 22-25*] *infra*.

²⁰ The foregoing *Administrative Event Entry* is incorrect, and references an incorrect *CCS Entry* of July 8, 2024, that treats the *Cover Letter* and *Notice to Court* as a *Motion*. This is explained further, *infra*.

²¹ Hereinafter [*“Motion praecipe”*].

²² Hereinafter [*“Appendix in Support of praecipe”*].

pursuant to the *Jurisdictional Mandate of Rule 53.1 of the Indiana Rules of Trial Procedure*. See CCS – Cf-59 [EXHIBIT - D, p. 2, July 18, 2025 Entry].

13. On January 9, 2025, the CF-59 Court, by the Honorable Stephanie E. Steele, Judge, issued an *Order* that reassigned the *Matter* from the *Original Cause* in Courtroom Four (4), to Courtroom Three (3).

14. On January 16, 2025, the foregoing *Transfer* took place.

15. On January 22, 2025, CF-59 was reassigned to the Honorable Christopher Fronk, Judge, Court Room Three (3).²³

16. On January 24, 2025, *Applicant Byers* sought informal resolution of the *praecipe*, and *Appendix*, with the *Respondent Clerk*, and did so by written Letter.

17. On June 9, 2025, *Applicant Byers* filed the following *Documents*, to wit:

A. *Verified Petition for Leave to Proceed in forma pauperis*;²⁴

B. *Petition for Writ of mandamus*;²⁵

C. *Relator's Brief in Support of Writ of mandamus*;²⁶ and

D. *Verified Substitute Record of Proceedings in Support of Writ of mandamus*;²⁷

with the Indiana Supreme Court in the following Cause, to wit: *State of Indiana on the Relation of Freddie L. Byers, III v. St Joseph Superior Court, et al.*, No. 25S-OR-144.

²³ Hereinafter [*“Respondent Court”*].

²⁴ Hereinafter [*“in forma pauperis motion”*].

²⁵ Hereinafter [*“mandamus Petition”*].

²⁶ Hereinafter [*“mandamus Brief”*].

²⁷ Hereinafter [*“Substitute Record”*].

18. On June 12, 2025, The Indiana Supreme Court issued the following *Order*, to wit: *Briefing Order* [EXHIBIT - A] states as follows, to wit:

The relator, pro-se, has filed a petition seeking relief under the Rules of Procedure for Original Actions. Relator seeks a writ ordering (1) the trial clerk to forward his *Trial Rule 53.1 praecipe* to the Court's Chief Administrative Officer; and/or (2) the trial judge to grant his "Verified Motion for Order to Compel Delivery of Money or Papers." Any briefs opposing issuance of the writ or any supplemental records must be filed directly with the Clerk of the Supreme Court on or before July 3, 2025. Any supplemental record must be submitted in the same format required for the record under *Original Action Rule 3(C)* and (G). Once briefing is completed, the Court will take the matter under advisement.

Done at Indianapolis, Indiana, on 7/30/2025.

/s/ Loretta Rush
Loretta H. Rush
Chief Justice of Indiana

[EXHIBIT - A, p.1] (*emphasis in original*) (*alterations added*).

19. As of July 3, 2025, neither the *Respondent Court* nor *Respondent Clerk*, filed any *Opposition Briefing* or *Supplemental Records*, as required by the Indiana Supreme Court's *Briefing Order* [EXHIBIT - A]. *cf Briefing Order* [EXHIBIT - A, p.1]; *CCS - OR-144* [EXHIBIT - E, pp. 1-3].

20. On July 21, 2025, the Indiana Supreme Court entered its *Dismissal Order* [EXHIBIT - B] as follows, to wit:

The Relator, *pro se*, had filed a *Petition* seeking relief under the *Rules of Procedure for Original Actions*. Relator requests a *writ* ordering the respondent Court to (1) rule on correspondence he tendered in July 2024; and (2) forward his *Trial Rule 53.1 praecipe*, filed in December 2024, to this Court's Chief Administrative Officer. For this Court to issue a *Writ of mandamus*, Relator must "state facts showing clearly" that, among other required elements, the respondent Court had exceeded its jurisdiction or failed to act when it was under a duty to act. Relator's *Petition* and supporting brief fail to establish this element. The CCS

[Chronological Case Summary] for the Trial Case reflects that the respondent Court acknowledged Relator's Documents, filed July 8, 2024, in docket entry dated July 18 stating "Court receives correspondence from Defendant. No action required". And because the Respondent Court determined it was not required to rule on the correspondence, the matter is not eligible for withdrawal under *Trial Rule 53.1*. Because the Relator seeks a remedy that is not permitted under the rules and law governing writs of mandamus and prohibition, this original action is DISMISSED. See *Ind. Original Action Rule 2(D)*. Petitions for rehearing or motions to reconsider are not allowed. *Orig. Act. R. 5(C)*.

Done at Indianapolis, Indiana, on 7/21/2025.

/s/ Loretta Rush
Loretta H. Rush
Chief Justice of Indiana

[EXHIBIT - B, p.1] (*emphasis in original*) (*alterations added*).

21. On July 21, 2025, The *Respondent Clerk* spread of *Record* in *CF-59*, the Indiana Supreme Court's *Dismissal Order* **[EXHIBIT - B]**. cf *CCS* **[EXHIBIT - D, p. 3]**.
22. On July 30, 2025, the Indiana Supreme Court entered its *Mootness Order* **[EXHIBIT - C]** in *OR-144*, which states as follows, *to wit*:

On July 21, 2025, the Court dismissed Relator's original action. On July 28, the Appellate Clerk received a motion from Relator—postmarked July 14—requesting that his writ be summarily granted in a published opinion. As explained in the Court's July 21 order, Relator's petition and supporting brief failed to state facts showing clearly that the respondent court exceeded its jurisdiction or failed to act when it was under a duty to act, as required by *Original Action Rule 3(A)(3)*. Accordingly, the Court dismissed the petition. See *Ind. Orig. Act. R 5(B)*. Being duly advised, the Court directs the Clerk to file Relator's "Motion for Summary Disposition and Motion to Publish" as of today's date but DENIES the motion as moot. No petitions for rehearing or motions to reconsider are permitted. *Orig. Act. R. 5(C)*.

Done at Indianapolis, Indiana, on 7/30/2025.

/s/ Loretta Rush
Loretta H. Rush

[EXHIBIT - C, p.1] (*emphasis in original*) (*alterations added*).

23. As the foregoing *Orders* show, they rely on the *Respondent Clerk's CCS Entries* (and *Omissions*); thereby making the Indiana Supreme Court's Findings therein unduly advised, and clearly erroneous. *cf* **[EXHIBIT - A]; [EXHIBIT - B]; [EXHIBIT - C]; and [EXHIBIT -D].**

24. *Respondent Court*, up to and including even-date, has taken no action on the *Motion to Compel*, and nothing has been filed with the *Respondent Court* to waive the exercise of the *Respondent Court's Mandate to Rule* upon such *Motion to Compel* pursuant to *Rule 53.1 of the Indiana Rules of Trial Procedure*.²⁸ **[EXHIBIT - D, pp. 1-3, all *Entries*].**

²⁸ See, e.g., *State ex rel Koppe v. Cass Circuit Court, et al.*, 723 N.E.2d 866 (Ind. 2000), where the Honorable Court stated in relevant part, *to wit*:

We note further that the procedure for enforcing *Trial Rules 53.1* and *53.2* where a clerk erroneously refuses to recognize that a cause should be withdrawn is to file an original action. *Williams*, 716 N.E.2d at 900. As we have recently restated, a party may not wait until an unfavorable judgment or ruling has been made, and then seek to invoke or enforce *Trial Rules 53.1* and *53.2*. *Williams*, 716 N.E.2d at 900; *Jolly v. Modisett*, 257 Ind. 426, 429, 275 N.E.2d 780, 781-82 (1971).

Id at 723 N.E.2d at 869. The Indiana Supreme Court, by way of example, continued as follows, stating in relevant part, *to wit*:

Similarly, the benefit of *Trial Rules 53.1* or *53.2* may be waived where the deadline for a ruling has passed, but rather than filing a *praecipe* to withdraw the cause, a party files pleadings or otherwise takes voluntary action of record inconsistent with that party's right to invoke those rules. See generally *Board of Medical Registration v. Turner*, 241 Ind. 73, 77-78, 168 N.E.2d 193, 195 (1960)(applying a predecessor rule).

Ibid, at n.1. See also *State ex rel Crain Heating Air Conditioning & Refrigeration v. Clark Circuit Court*, 921 N.E.2d 1281, 1286 (Ind. 2010) (same); *State ex rel Cheeks v. Wirt*, 203 Ind. 121, 132, 177 N.E. at 445 (1931)(same); *State ex rel Kostas v. Johnson*, 224 Ind. 540, 545, 69 N.E.2d 592, 594 (1946)(same); *State ex rel Harlan v. Municipal Court of Marion County*, 221 Ind. 12, 15, 46 N.E.2d 198, 198 (1943)(same); and *Swain v. Princeton*, 147 Ind. App. 174, 188, 259 N.E.2d 440, 448 (1970)(same).

25. Due to the foregoing Facts, *Applicant Byers* sought the Indiana Supreme Court's Supervisory Jurisdiction, pursuant to the *Indiana Rules of Procedure for Original Actions*, and requested the Indiana Supreme Court mandate the *Respondent Court* and *Respondent Clerk* to act upon the *Motion to Compel* at issue in the Respondent Court; clearly invoking the mandatory duty of the Respondent Court to act, pursuant to *Indiana Code 33-43-1-9*.

V. REASONS JUSTIFYING AN EXTENSION OF TIME

26. *Applicant Byers* asserts the *Dismissal Order* [EXHIBIT – B] became, for purposes of *certiorari Jurisdiction*, a *Final Judgment* of a *State Court of Last Resort*, to wit: *The Indiana Supreme Court*; reviewable in this Honorable Court,²⁹ pursuant to this Honorable Court's *certiorari Jurisdiction* in 28 U.S.C. § 1257(a).

²⁹ See, e.g. *Lynk v. LaPorte Superior Court, No. 2*, 789 F.2d 554 (7th Cir. 1986). In *Lynk, supra*, the Honorable Richard Posner, Circuit Judge stated in relevant part, to wit:

The question, however, is the application of this principle to a case where no final judgment has been or is likely ever to be entered. An essential strut beneath the policy is the existence of jurisdiction in the Supreme Court to review any dispositive federal questions involved in the state proceeding. That jurisdiction does not depend, it is true, on the proceeding's having gone to final judgment in the usual sense, for a litigant who is stymied by a procedural ruling from which he cannot appeal can ask the U.S. Supreme Court to review that ruling; it is the final decision rendered "by the highest court of a State in which a decision could be had." 28 U.S.C. 1257; see *Stern, Gressman & Shapiro, Supreme Court Practice* 3.14-.15 (6th ed. 1986). Nor does the Supreme Court's jurisdiction depend on whether the state court addressed the question; it is enough that a federal claim was made, and not accepted. See, e.g., *New York ex rel. Bryant v. Zimmerman*, 278 U.S. 63, 67, 73 L. Ed. 184, 49 S. Ct. 61 (1928); *Illinois v. Gates*, 462 U.S. 213, 218 n. 1, 76 L. Ed. 2d 527, 103 S. Ct. 2317 (1983). But if the federal question was neither raised nor decided, the Supreme Court does not have jurisdiction. See 28 U.S.C. 1257; *Wood v. Orange County*, 715 F.2d 1543, 1546-47 (11th Cir. 1983); cf. *District of Columbia Court of Appeals v. Feldman, supra*, 460 U.S. at 482 n. 16. Of course we do not suggest that a litigant in state court can obtain judicial review in a federal district court (with appeal to the court of appeals and then a right to ask the Supreme Court for review on certiorari) simply by failing to raise his federal questions in the state court. The rules of *res judicata* will prevent this result once the judgment in the state court proceeding becomes final; before it becomes final the result will be prevented by a veritable barrage of grounds -- waiver or forfeiture, doctrines of

Under *Rules 13.1, 13.3, and 30.1 of the Rules of the Supreme Court of the United States*, a *Petition for a Writ of certiorari* is due to be filed on or before October 29, 2025.

27. In accordance with *Rule 13.5 of the Rules of the Supreme Court of the United States*, *Applicant Byers* has filed this *Instant Application* more than ten (10) days in advance of that due date, *to wit*: October 29, 2025.

28. *Applicant Byers* respectfully requests a Sixty (60) day extension of time, to and including, December 12, 2025 within which to file a *Petition for a Writ of certiorari* seeking review of the *Dismissal Order* [EXHIBIT – B] of the Indiana Supreme Court in *OR-144*.

29. An extension is warranted because of the importance of the issues presented and undersigned *Applicant Byers*’ need for additional time to prepare a *Petition* that will assist this Honorable Court in deciding whether to grant *certiorari* on a matter of substantial Public Interest, in and through this Honorable Court’s governing *Rule*

abstention, and the fact that an interim ruling is not (not usually, anyway) a deprivation of the substantive right at stake in the litigation. But there will be no jurisdictional bar. The door will be open a crack, to make sure the state cannot block access to the federal courts by refusing to allow a state court litigant to raise federal questions in state court.

Id., at 564-565. *Lynk, supra*, stands for the proposition—especially in the instant *Application*—that an *Order of Dismissal* by the Indiana Supreme Court in Original Action Proceedings are reviewable in this Honorable Court as a *Final Judgment* of a State Court of Last Resort; especially when such *Dismissal Order* [EXHIBIT – B] denies a Litigant a Remedy to a Right to Life, Liberty, or Property Interest. *cf Pigg, supra*. See also *Marbury v. Madison*, 5 U.S. [1 Cranch] 137 (1803) (Marshall, C.J.), where then Chief Justice Marshall stated in relevant part, *to wit*:

The government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right.

Id., at 163.

for consideration of such subject matter described in *Rule 10 of the Rules of the Supreme Court of the United States*.³⁰

30. This case concerns a *Final Judgment* of Indiana Supreme Court that effectively denies *Applicant Byers* a remedy to the denial of a protected *Property Interest*,

³⁰ See, e.g., *Maryland v. Baltimore Radio Show, Inc.*, 338 U.S. 912, 917-918 (1950) (enumerating grounds upon which Supreme Court may deny writ of *certiorari*); *NLRB v. Pittsburgh S.S. Co.*, 340 U.S. 498, 502-502 (1951) (*certiorari* is granted only in cases involving principles the settlement of which is of importance to public as distinguished from parties; and *Rice v. Sioux City Memorial Park Cemetery, Inc.*, 349 U.S. 70 (1955), where this Honorable Court said in relevant part, *to wit*:

Only if a State deprives any person or denies him enforcement of a *Right* guaranteed by the *Fourteenth Amendment* can its protection be invoked.

Id. at 72. This Honorable Court then laid out the Considerations listed in predecessor to *Rule 10* of the United States Supreme Court as governing grant of *certiorari* by Court were illustrative but not exhaustive. *Ibid.* Additionally, this Honorable Court said the following in *Rice, supra, to wit*:

A federal question raised by a petitioner may be "of substance" in the sense that, abstractly considered, it may present an intellectually interesting and solid problem. But this Court does not sit to satisfy a scholarly interest in such issues. Nor does it sit for the benefit of the particular litigants. (*Magnum Import Co. v. Coty*, 262 U.S. 159 [163] [] [(1923)]; see also Address of Mr. Chief Justice Vinson, before the American Bar Association, Sept. 7, 1949, 69 Sup Ct v, vi; Address of Mr. Chief Justice Hughes, before the *American Law Institute*, May 10, 1934, XI Proc Am Law Inst 313.) "Special and important reasons" imply a reach to a problem beyond the academic or the episodic. This is especially true where the issues involved reach constitutional dimensions, for then there comes into play regard for the Court's duty to avoid decision of constitutional issues unless avoidance becomes evasion. Cf. the classic rules for such avoidance stated by Mr. Justice Brandeis in *Ashwander v. Tennessee Valley Authority*, 297 U.S. 288, 341 [] [(1936)].

Rice, 349 U.S. at 74 (*alterations added*). *Applicant Byers* asserts this is precisely what occurred in the Judgment of the Indiana Supreme Court below. cf [**Instant Application** pp. 8-9, ¶ 22-25], *ante* (quoting [**EXHIBIT B**] attached hereto). As this instant *Application* shows, the Indiana Supreme Court, by way of *Ind. Orig. Act. R. 5(C)*, has misapprehended or grossly misapplied the *Standard of Review* appropriate to an *I.C § 33-43-1-9 Proceeding*; making this Honorable Court's intervention necessary. (See, e.g., *Universal Camera Corp. v. N.L.R.B.*, 340 US 474, 490-491 (1951) (This Honorable Court will intervene only when the Standard of Review appears to have been misapprehended or grossly misapplied); see also *Radio Corp. of America v. United States*, 341 US 412, 414-415 (1951) (*same*)). This is because the only *Remedy Applicant Byers* may seek to vindicate his *Property* (and arguably *Liberty*) *Interests*, is the *Procedure* pursuant to *I.C § 33-43-1-9*; lest the Indiana Supreme Court defy its own *Dismissal Order* [**EXHIBIT - B**] (*citing Ind. Orig. Act. R. 5(C)*). Otherwise, such pursuit is in this Honorable Court *via certiorari Jurisdiction*. cf *Smith v. State*, 426 N.E.2d 402 (Ind. 1981) (Holding a Trial Courts *Judgment* on such proceeding would provide a *Final Appealable Judgment* capable of regular Appellate Procedure under Indiana Law); *Chissell*, 705 N.E.2d at 506 (Holding *nisi prius* Courts of Indiana cannot force a Trial Court to enter a *Final Appealable Judgment*, and the *only* remedy is to *Petition* the Indiana Supreme Court for a *Writ of mandamus*).

established by I.C. § 33-43-1-9; susceptible to the protection of the *Due Process of Law Clause of the Fourteenth Amendment to the United States Constitution*. See [Instant Application pp. 1-3, ¶ 2, n. 7]. cf [Instant Application pp. 8-9, ¶¶ 20-25].

31. Additionally, the *Dismissal Order* [EXHIBIT – B] flies in the face of the *vested Property Right of Applicant Byers* established under I.C. § 33-43-1-9, as well as all *future Invocations of I.C. § 33-43-1-9*; and the protections of this Honorable Courts' *Due Process of Law Precedents*, as not firmly or regularly followed.³¹ Cf *Pigg, supra*.

32. While *Applicant Byers' Original Action* in *OR-144*, is premised upon the *Indiana Rules of Procedure for Original Actions*; a fact that generally does not render a *Final Judgment* of the Indiana Supreme Court;³² such is inapposite here, as the

³¹ See, e.g., *Dennis v. State*, 908 N.E.2d 209, 211 (Ind. 2009) (A defendant's sentences are governed by the law in effect at the time of his crimes) (citing *Jacobs v. State*, 835 N.E.2d 485, 491 n.7 (Ind. 2005)); *State v. Hernandez*, 910 N.E.2d 213, 215-217 (Ind. 2009) (holding that Indiana law in effect at the time of Hernandez's crimes dictated that he was not eligible to be considered for parole absent executive clemency); *Johnston v. Dobeski*, 739 N.E.2d 121, 123 n. 3 (Ind. 2001) *overruled in-part on different grounds in Hernandez, supra* (As a general rule, the law in effect at the time a defendant committed a crime controls his or her sentencing) (citing *Smith v. State*, 675 N.E.2d 693, 695 (Ind. 1996); *Watford v. State*, 270 Ind. 262, 264, 384 N.E.2d 1030, 1032-33 (1979)). Additionally, Indiana has an exception to that General Rule, i.e., when the legislature amends the statute that was in force at the time of the offense, the amendment takes effect prior to sentencing, and the amendment provides for an ameliorative penalty. *Johnston*, 731 N.E.2d at 123 n. 3 (citing *Elkins v. State*, 659 N.E.2d 563, 565 (Ind. App. 1995)). Even this Honorable Court has recognized and applied such General Rule of contemporaneous application of law with the timing of the underlying criminal transgression. See, e.g., *California Department of Corrections v. Morales*, 514 U.S. 499, 517 (1995) (Finding the General Rule, as to retroactive Amendments of controlling law, doesn't implicate Legislative *ex post facto* (or Judicial *Due Process of Law*) concerns if the challenged Amendment neither (1) effected a change in the definition of the prisoner's crime, nor (2) increased the punishment attached to the crime). See also *Landgraf v. USI Film Products*, 511 U.S. 244, 273 (1995) (When a statute is unambiguous, there is no conflict between (1) the principle that in many situations, a court should apply the law in effect at the time that the court renders its decision even though that law was enacted after the events that gave rise to the suit; and (2) a judicial presumption against retroactivity) (quoting *Bradley v. School Board City of Richmond*, 416 U.S. 696, 711 (1974); *United States v Schooner Peggy*, 1 Cranch 103, 107-109, 2 L Ed 49 (1801) (Marshal, C.J.)). As such, this is an issue ripe for *certiorari* review.

³² See, e.g., *Haddix v. State*, 827 N.E.2d 1160, 1166-1167 (Ind. App. 2005) *trans denied* (finding that denial or dismissal of an *Original Action* by the Indiana Supreme Court does not generally constitute a *Final Judgment* on the merits precluding review in an *Appellate Proceeding*).

facts and circumstances show that without such Relief in the Indiana Supreme Court, That Court's failure to act would be to deny *Applicant Byers* a vested *Property Interest* created under *I.C. § 33-43-1-9*. That would be reviewable by this Honorable Court through its *certiorari* Jurisdiction. *cf Pigg, supra*;³³ and *Lynk v. LaPorte Superior Court, No. 2, 789 F.2d 554 (7th Cir. 1986)*.³⁴

33. As of even-date, *Applicant Byers* is preparing, and will be filing, the following Documents in *OR-144, to wit*:

- A. *Relator's Verified Petition to the Indiana Supreme Court to Engage in Emergency Rulemaking to Protect the Property Rights Created by Indiana Code § 33-43-1-9 from Arbitrary and Capricious Conduct of Indiana Trial Courts*;
- B. *Relator's Verified Supplemental Substitute Record of Proceedings in Support of Verified Petition for Alternate Writ of Mandamus*; and
- C. *Relator's Verified Petition for Alternate Writ of Mandamus*;

requesting the Indiana Supreme Court to act, as the Indiana Supreme Court's *Dismissal Order* [EXHIBIT B, p. 1], and *Mootness Order* [EXHIBIT C, p.1], present an *extraordinary circumstance*; the *Orders*—[EXHIBIT - B]; [EXHIBIT - C]; and [EXHIBIT - C]—are clearly erroneous, and are based upon incorrect *Chronological Case Summary*³⁵ *Entries (and Omissions)*, by the *Respondent Clerk* at the outset; working manifest injustice to *Applicant Byers* as follows, *to wit*:

- A. Denying *Applicant Byers* fundamental fairness³⁶ in the above-entitled *Proceeding*, as follows, *to wit*:

³³ See also [Instant Application pp. 1-3, ¶ 2, n. 7].

³⁴ See also [Instant Application pp. 8-9, ¶¶ 20-25].

³⁵ *cf CCS – CF-59* [EXHIBIT D, pp. 1-3].

³⁶ The Indiana Supreme Court has spoken about the necessity of fundamental fairness in its *Procedural Rules* before. See, e.g., *M.H. v. State*, 207 N.E.3d 412 (Ind. 2023) (quoting in part *State v. Mohler*, 694 N.E.2d 1129, 1133 (Ind. 1998)). As *Orig. Act. R. 5(C)* is a *Procedural Rule* of the Indiana

- i. *Denial of Applicant Byers' Right to Substantive Due Process of Law and Equal Protection of Law* guaranteed by *Section One of Fourteenth Amendment of the United States Constitution*, and *Article One, Sections Twelve and Twenty-Three of the Indiana Constitution*, by denying a ruling on *Applicant Byers' Document* on file in the *Respondent Court Record* in *CF-59* on July 2, 2024, *to wit: Verified Motion for Order to Compel Production of Money or Papers*, pursuant to *Indiana Code § 34-43-1-9*;³⁷
- ii. *Denial of Applicant Byers' Rights to Substantive and Procedural Due Process of Law and Equal Protection of Law* guaranteed by *Section One of Fourteenth Amendment of the United States Constitution*, and *Article One, Sections Twelve and Twenty-Three of the Indiana Constitution*, *to wit: Right to Appeal* pursuant to *Article Seven, Section Six of the Indiana Constitution*, *Indiana Code § 34-56-1-1*, and *Rule 9(a)(1) of the Indiana Rules of Appellate Procedure*, of his absolute Right to one (1) Appeal and to the extent provided by Rule,³⁸ protected by the *Due Process and Equal Protection of Law Clauses of the United States*

Supreme Court, its exercise must be *fundamentally fair* to a litigant to whom it applies. As will be shown by *Applicant Byers infra*, such was not so, as evidenced by the findings stated by the Indiana Supreme Court in its *Dismissal Order* of July 21, 2025 [EXHIBIT - B] and *Mootness Order* of July 30, 2025 [EXHIBIT - C], in *OR-144*; all due to the failure of the *Respondent Clerk* to maintain an accurate *Record of Proceedings* translated to its *CCS Entries* in *CF-59*. Furthermore such was exacerbated by the *Respondent Clerk's* intransigence in failing to provide, upon request of *Applicant Byers*, a *Record of Proceedings* in *CF-59* for filing in the above-entitled Cause, at the outset. As will be shown, *infra*, and in the contemporaneously filed Documents herewith, the *Respondent Court* and *Respondent Clerk's* intentional failure to reply at all to *Applicant Byers* regarding the above-entitled Cause (or in preparation thereof) has caused this entire proceeding to be brought into serious question; a question that can only be answered by the granting of this instant *Petition for an Alternative Writ*, to allow for a correction of the Record of Proceedings, and thereafter for proper reconsideration by the Indiana Supreme is Honorable Court.

³⁷ This *Document* was previously presented to the Indiana Supreme Court in the following *Document* filed on June 3, 2025, *to wit: Verified Substitute Record of Proceedings in Support of Verified Petition for Writ of Mandamus*, pp. 27-46, 64-83. What is more, such was detailed and explained to the Indiana Supreme Court in the contemporaneously filed *Document* therewith, *to wit: mandamus Petition*, at pp. 2, ¶ 2 (A) n. 5.

³⁸ *Flores v. Flores*, 658 N.E.2d 95, 97 (Ind. Ct. App. 1995) (*Indiana Constitution* grants an absolute right to one appeal) (citing *Article 7, Section 6 of the Indiana Constitution*). See also *C.A.B. v. J.D.M. (In re C.B.M.)*, 992 N.E.2d 687, 692 (Ind. 2013) (*same*); *Galloway v. State*, 938 N.E.2d 699, 709-710 (Ind. 2010) *reh'g denied (same)* cf. *Carpenter v. Farm Credit Services of Mid-America*, 654 N.E.2d 1125, 1126-27, 1128 n.7 (Ind. 1995) (order to show cause why appeal should not be dismissed and subsequent dismissal of appeal as moot could violate the constitutional right to one appeal).

Constitution,³⁹ by denying a ruling on *Applicant Byers' Document* on file in the *Respondent Court Record* of CF-59, on July 2, 2024, to wit: *Verified Motion for Order to Compel Production of Money or Papers*, pursuant to *Indiana Code § 34-43-1-9*;^{40 41}

- iii. Inconsistent application of, and direct conflict with, controlling *Precedents* of the Indiana Supreme Court that describe and explain the operation of, and limitations to, *Rule 53.1 of the Indiana Rules of Trial Procedure*, to wit: .

seeking the Indiana Supreme Court's discretion to act, notwithstanding its own *Rules*, to wit: *Rule 5(C) of the Indiana Rules of Procedure for Original Actions*; and reconsider or rehear the *Dismissal Order* [EXHIBIT – B].⁴²

³⁹ See, e.g., *Lindsey v. Normet*, 405 U.S. 56, 77 (1972) (When an appeal is afforded, it cannot be granted to some litigants and capriciously or arbitrarily denied to others without violating the equal protection clause of the *Fourteenth Amendment*) (citing *Griffin v. Illinois*, 351 U.S. 12, 18 (1956); *Smith v. Bennett*, 365 U.S. 708 (1961); *Lane v. Brown*, 372 U.S. 477 (1963); *Long v. District Court of Iowa*, 385 U.S. 192, (1966); *Gardner v. California*, 393 U.S. 367, (1969)). cf. *Coppedge v. United States*, 369 U.S. 438 (1962); *Ellis v. United States*, 356 US 674, (1958).

⁴⁰ See n. 11, *ante*.

⁴¹ *Gaston v. State*, 200 N.E.3d 920, ____ (Ind. 2023) (Adopting the Indiana Court of Appeals harmonization of *Rule 16 of the Indiana Rules of Trial Procedure*, *Marion County Indiana Local Rule LR49-TR16 207(B)*, and *Rule 56(b) of the Indiana Rules of Trial Procedure*, so that the interpretation of language “at any time” in *T.R. 16* as permitting a trial court latitude to permit a filing that would prevent a “manifest injustice”). As such, *Gaston* makes clear that a *Procedural Rule* of the Indiana Supreme Court is often used to prevent “manifest injustice”. cf. *Leist v. Auto Owners Ins. Co.*, 160 Ind. App. 322, 329, 311 N.E.2d 828, 833 (Ind. App. 1974) (*Rules of Procedure* are construed in order to effect a just, speedy and inexpensive determination of every action) (citing *Rule 1 of the Indiana Rules of Trial Procedure*).

⁴² *Applicant Byers*, as the *Relator* in *OR-144*, is seeking such as the *CCS Entries* (and arguably *their Omissions*) by the *Respondent Clerk* therein, were clearly erroneous. Thus, challenging the clearly erroneous, and improperly influenced findings of the Indiana Supreme Court's *Dismissal Order* [EXHIBIT – B]. Specifically, those *Findings* referenced a *completely different Document* that was not required to be ruled upon by the *Respondent Court* versus the *Motion to Compel* under *I.C. 33-43-1-9*. cf *Pigg, supra*. At bottom, the *Respondent Clerk* failed to enter the *Motion to Compel* in the *Respondent Court CCS*, and such was not accurately considered by the Indiana Supreme Court in *OR-144* from the outset. cf [EXHIBIT – B, pp. 1-3]; *Mootness Order* [EXHIBIT – C]; and

34. *Applicant Byers* submits this instant *Application* to preserve this Honorable Court's *certiorari Jurisdiction* in 28 U.S.C. § 1257(a) of the *Dismissal Order* [EXHIBIT - B].

35. Due to the foregoing, this matter will be ripe for Review in this Honorable Court should the Indiana Supreme Court deny reconsideration of the *Dismissal Order* [EXHIBIT - B] in *OR-144*.

36. To otherwise deny Review in this Honorable Court on such Issue, would allow Indiana Courts to arbitrarily and capriciously deny Relators and Clients of Attorney's—like *Applicant Byers*—a *Right* to a full and fair *Remedy* to the denial of an established *Property Interest* under I.C. § 33-43-1-9; a Statute that this Honorable Court has similarly protected in the arena of an Appeal created under State Law.⁴³

37. *Applicant Byers* will be proceeding *pro-se* in this Honorable Court, fully intending for all filings herein to be neat, concise, and meaningful; bringing forth a matter of substantial public importance, meeting this Honorable Court's *Rule 10* of

⁴³ See, e.g. *Lindsey v. Normet*, 405 U.S. 56 (1972), where this Honorable Court held in relevant part, *to wit*:

[T]hat if a full and fair trial on the merits is provided, the *Due Process Clause* of the Fourteenth Amendment does not require a State to provide appellate review, *Griffin v Illinois*, 351 U.S. 12, 18, [] (1956); *District of Columbia v Clawans*, 300 U.S. 617, 627, [] (1937); *Ohio v Akron Park District*, 281 U.S. 74, 80, [] (1930); *Reetz v Michigan*, 188 U.S. 505, 508, [] (1903); *McKane v Durston*, 153 U.S. 684, 687-688, [] (1894), and the continuing validity of these cases is not at issue here. When an appeal is afforded, however, it cannot be granted to some litigants and capriciously or arbitrarily denied to others without violating the *Equal Protection Clause*. *Griffin v Illinois*, *supra*; *Smith v Bennett*, 365 U.S. 708, [] (1961); *Lane v Brown*, 372 U.S. 477, [] (1963); *Long v District Court of Iowa*, 385 U.S. 192, [] (1966); *Gardner v California*, 393 U.S. 367, [] (1969). *cf. Coppedge v United States*, 369 U.S. 438, [] (1962); *Ellis v United States*, 356 U.S. 674, [] (1958)).

Id., at 77 (*alterations added*).

the United States Supreme Court's requirements, which will compel this Honorable Court to grant *certiorari* herein.

38. Due to the foregoing, *Applicant Byers* will need the extra-time in which to prepare and file a *Petition for certiorari* in this Honorable Court, addressing the foregoing issue of substantial import and for the consistency in which law is required to function for the entire United States.⁴⁴

39. *Applicant Byers* is an *Offender*⁴⁵ serving an executed *Judgment of Conviction and Sentence* in the Indiana Department of Correction,⁴⁶ to wit: *State of Indiana v. Freddie L. Byers, III*, No. 71D01-9701-CF-59.⁴⁷

40. As such, *Applicant Byers* he has been consistently denied and delayed from meaningful access to the Pendleton Correctional Facility Law Library which is his only way to prepare his documents using a *Microsoft Word® Program*; *Applicant Byers* respectfully submits that additional time is warranted because *Applicant Byers* is incarcerated within a Penal Facility in the State of Indiana, serving a *Judgment of Conviction and Sentence* relative to the subject-matter in *CF-59*, the subject of this instant *Application*.

41. As such, he is stymied by the vagaries of incarcerated life and unable to have timely and immediate access to his files and word processing capabilities due to miscreant Incarcerated Individuals causing inevitable lockdowns.

⁴⁴ See n. 9, *ante*.

⁴⁵ In Indiana, *Applicant Byers* meets the Statutory Definition of "Offender". See § *Indiana Code 11-8-1-9*.

⁴⁶ Hereinafter ["IDOC"].

⁴⁷ Hereinafter ["*CF-59*"].

42. As such, *Applicant Byers* has been delayed and denied such access, affecting such preparation and service of his *Petition* upon this Honorable Court.

CONCLUSION

43. For these reasons, *Applicant Byers* respectfully requests an extension of Sixty (60) days, to and including December 29, 2025, within which to file a *Petition for a Writ of certiorari* in this case.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Freddie L. Byers, III", is written over a horizontal line.

Freddie L. Byers, III

D.O.C. 984357

Pendleton Correctional Facility

4490 West Reformatory Road

Pendleton, Indiana 46064

pro-se Applicant / Petitioner

Freddie L. Byers, III

**II. CERTIFICATE OF ACKNOWLEDGEMENT UNDER SEAL OF
NOTARY PUBLIC**

STATE OF INDIANA)
) SS:
COUNTY OF MADISON)

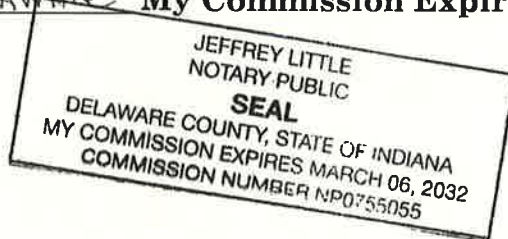
44. I, Jeffrey Little, a duly commissioned Notary Public In and for the aforesaid County and State, assert that the following person, known to me personally, *to wit*: *Freddie L. Byers, III*, D.O.C. 984357; appeared as *Affiant* in the aforesaid *Document*, *to wit*; made upon twenty-two (22) sheets of paper, also in duplicate and acknowledged the execution of the same as his free act and testimony to the contents thereof.⁴⁸

45. In witness whereof, I hereby affix my hand and seal hereto, on this 30 day of Sept, 2026, pursuant to *Indiana Code § 34-37-1-5* and *Rule 902 (b)* of the *Federal Rules of Evidence*.

Jeffrey Little
Notary Public [Printed Name]

Jeffrey Little
Notary Public [Signature]

County of Residence: Delaware My Commission Expires: 3-6-2032



⁴⁸ This facts alleged in this instant *Application*, are being offered, unequivocally, for the truth of the matters alleged herein; making such in the form of an *Affidavit*, and admissible in this Honorable Court as evidence, allowing the opposing parties and third-parties the opportunity to rebut such in this Honorable Court. See, e.g., *Weddington v. Zatecky*, 721 F.3d 456, 464-465 (7th Cir. 2013).

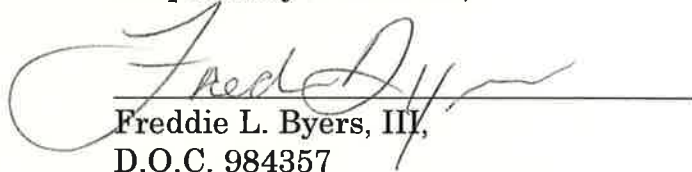
CERTIFICATE OF FILING AND SERVICE

46. I, Freddie L. Byers, III, being duly sworn upon my oath, under the penalties of perjury, pursuant to 28 U.S.C. §1746; do hereby allege and say that the foregoing document, *to wit: Application for an Extension of Time within Which to File a Petition for a Writ of Certiorari to the Indiana Court of Appeals*; has been filed manually upon the following, *to wit:*

- A. The Honorable Scott S. Harris, Clerk of the United States Supreme Court, 1 First Street, N. E., Washington, D.C. 20543;
- B. The Honorable Richard Pachmyr, Clerk of the Supreme Court, Court of Appeals, and Tax Court of Indiana, Room 217 State House, 200 West Washington Street, Indianapolis, Indiana 46204, and
- C. The Honorable Theodore Rokita, Deputy Indiana Attorney General, Office of the Indiana Attorney General, Indiana Government Center South, fifth floor, 302 West Washington Street, Indianapolis, Indiana 46204;

pursuant to the *Prison Mailbox Rule* of the following judicial precedent, *to wit: Houston v. Lack*, 487 U.S. 266, 270, 276 (1988); and *Thomas v. Gish*, 64 F.3d 323, 324-25 (7th Cir. 1995); on this 30 day of September, 202 5.

Respectfully Submitted,


Freddie L. Byers, III,
D.O.C. 984357

Affiant/Petitioner *pro-se*
Pendleton Correctional Facility
4490 West Reformatory Road
Pendleton, Indiana 46064

In the Indiana Supreme Court

State ex rel. Freddie L. Byers, III,
Relator,

v.

St. Joseph Superior Court, et al.,
Respondents.

Supreme Court Case No.
25S-OR-144

Trial Court Case No.
71D04-9701-CF-59



Order

The relator, pro se, has filed a petition seeking relief under the Rules of Procedure for Original Actions. Relator requests a writ ordering the respondent court to (1) rule on correspondence he tendered in July 2024; and (2) forward his Trial Rule 53.1 praecipe, filed in December 2024, to this Court's Chief Administrative Officer.

For this Court to issue a writ of mandamus, Relator must "state facts showing clearly" that, among other required elements, the respondent court has exceeded its jurisdiction or failed to act when it was under a duty to act. Relator's petition and supporting brief fail to establish this element. The CCS for the trial case reflects that the respondent court acknowledged Relator's documents, filed on July 2 and July 8, 2024, in a docket entry dated July 18 stating "Court receives correspondence from Defendant. No Action Required." And because the respondent court determined it was not required to rule on the correspondence, the matter is not eligible for withdrawal under Trial Rule 53.1.

Because the relator seeks a remedy that is not permitted under the rules and law governing writs of mandamus and prohibition, this original action is DISMISSED. *See Ind. Original Action Rule 2(D)*. Petitions for rehearing or motions to reconsider are not allowed. *Orig. Act. R. 5(C)*.

Done at Indianapolis, Indiana, on 7/21/2025.


Loretta H. Rush
Chief Justice of Indiana

[EXHIBIT B]

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