

UNITED STATES SUPREME COURT

No.

MARK HANNA,

PLAINTIFF-PETITIONER

VERSUS

**JOHN BEL EDWARDS; JAMES LEBLANC; EUGENE POWERS; WHALEN GIBBS;
JOHN HOOPER; Et al,**

DEFENDANTS-RESPONDENTS.

On

Petition for Writ of Certiorari

to the United States Court of Appeals

for the Fifth Circuit



Mark Hanna 132872

LSP, Main Prison, Ash-4

Angola, LA 70712

**Petitioner's Ex Parte Motion for Increase of
Time to File the Petition for Writ of Certiorari**

Introduction and Grounds for Relief

I intend to file a petition for writ of certiorari to the United States Court of Appeals for the Fifth Circuit [Appeal Court] for restoration of my *informa pauperis* status on appeal [IFPA] that was rejected in the United States District Court for the Middle District of Louisiana [District Court] as not taken in good faith on January 31, 2025, subsequent to a final Judgment entered there on May 29, 2024, in a civil action Complaint submitted there under 42 U.S.C., Section 1983. The Appeal Court declined my Rule 24, Federal Rule of Appellate Procedure [Fed. R. App. P.] Motion for IFPA on August 20, 2025. A motion for increase of time to file for rehearing there was rejected on September 12, 2025, for failure to timely file for it [per Circuit Judge Stephen A. Higginson].

Hence, I perceive that my ninety days time limit for filing my application for the writ of certiorari commenced on August 20, 2025. The Appeal Court motion for IFPA, No. 24-30557, was timely submitted, but dismissed for what the Appeal Court cited *per curiam* as a briefing error that I intend to litigate by the writ. My appeal in the Appeal Court from the final judgment of June 29, 2024, was not preserved by the untimely-filed Rule 59(e), Federal Rule of Civil Procedure [Fed. R. Civ. P.], Motion For Rehearing, to Alter or Amend. But my appeal in the Appeal Court, otherwise, is from the timely notices of appeal I filed from the Rule 59(e) Motion to Alter or Amend declined August 7, 2024, and from the Motion for Rule 60(b) Relief [Fed. R. Civ. P.], declined October 7, 2024. And, as stated, the present writ application is from the IFPA Appeal Court Motion declined there on August 20, 2024, having Appeal No. 24-30557.

There was no copy of the Appeal Court's No. 24-30557 Judgment enclosed with the Appeal Court Clerk's letter I was served with at the prison on August 25, 2025. Again, there was also no copy of the Appeal Court's Opinion and Mandate enclosed with the Appeal Court Clerk's

letter I was served with on September 16, 2025. The District Court civil action, No. 21-537-JWD-RLB, was dismissed prior to service, hence the present motion and writ application are presented ex parte. By circumstances beyond my control within the prison, thirty-three days were wasted out of my ninety days time limit for filing the writ application after the August 20, 2025, IFPA Appeal Court motion was declined, racing to get the described motion for increase of time to file for rehearing researched and submitted. I am at the present time researching the areas of law involved in my District Court case and in my dismissed appeal to present a national cross-section of it to the Supreme Court by the application.

Obtaining Clerk's copies of the described missing Opinion and Mandate will consume an unpredictable amount of time. A few years ago my petition was made untimely and rejected in an identical set of circumstances after Louisiana prison officials made the check payable to the wrong payee ["Lyle W, Cayce," specifically, instead of "Clerk of Court," after the same kind of copies of documents had been removed from the Appeal Court Clerk's envelope]. The law library word processor and Westlaw research equipment at the prison are far shorter in quality and availability than what an ordinary person would expect for a prison the size of Angola. In the path of those developments I am asking for an increase of time equal to some of the time I lost by the described unsuccessful motion for increase of time to file for rehearing and thirty days added to it [forty days total] to obtain the documents I have to purchase by mail from the Appeal Court Clerk's Office using a D.O.C. issued check for it, to complete the research, and draft the document. I earnestly pray for it coming to pass.

Respectfully,


Mark Hanna 132872
LSP, Main Prison, Ash-4
Angola, LA 70712

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

August 20, 2025

Lyle W. Cayce
Clerk

No. 24-30557

MARK HANNA,

Plaintiff—Appellant,

versus

JOHN BEL EDWARDS; JAMES LEBLANC; EUGENE POWERS;
WHALEN GIBBS; JOHN HOOPER; ET AL.,

Defendants—Appellees.

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 3:21-CV-537

Before JONES, SMITH, and HIGGINSON, *Circuit Judges.*

PER CURIAM:*

Mark Hanna, Louisiana prisoner # 132872, moves for leave to proceed in forma pauperis (IFP) on appeal from the district court's dismissal of his civil rights action for failure to comply with an order of the district court and for failure to prosecute, as well as from the denial of his postjudgment motions. By moving for leave to proceed IFP on appeal, Hanna challenges

* This opinion is not designated for publication. See 5TH CIR. R. 47.5.

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the district court's certification that the appeal was not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

As a preliminary matter, we must examine the basis of our jurisdiction. *Mosley v. Cozby*, 813 F.2d 659, 660 (5th Cir. 1987). A timely notice of appeal in a civil case is a jurisdictional prerequisite when, as in the instant matter, the time limit is set by statute. *See Bowles v. Russell*, 551 U.S. 205, 213-14 (2007); 28 U.S.C. § 2107(a).

The district court dismissed Hanna's civil action on May 29, 2024. Hanna then filed for reconsideration on July 8, 2024. Because Hanna's motion for reconsideration of the dismissal of his civil action was filed outside the 28-day period allowed for filing a Federal Rule of Civil Procedure 59(e) motion, it did not toll the time for filing a notice of appeal. *See* FED. R. CIV. P. 59(e); *Vincent v. Consol. Operating Co.*, 17 F.3d 782, 785 (5th Cir. 1994). Hanna's notice of appeal, filed on or about August 19, 2024, was therefore not timely from the judgment dismissing his civil action and this court lacks jurisdiction over Hanna's appeal of that judgment. *See Bowles*, 551 U.S. at 214. Accordingly, the appeal is DISMISSED IN PART for lack of jurisdiction.

Hanna has timely appealed from the August 7, 2024, denial of his motion for reconsideration, which is properly treated as a Federal Rule of Civil Procedure Rule 60(b) motion. *See Frew v. Young*, 992 F.3d 391, 397 (5th Cir. 2021); FED. R. APP. P. 4(a)(1)(A). He has also timely appealed from the October 7, 2024, denial of a Rule 60(b)-denominated motion. *See* FED. R. APP. P. 4(a)(1)(A). Rule 60(b) permits relief from a final judgment if the party shows: "(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud . . . , misrepresentation, or misconduct by an opposing party; (4) the

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judgment is void; (5) the judgment has been satisfied, released, or discharged; . . . or (6) any other reason that justifies relief.” FED. R. CIV. P. 60(b). A Rule 60(b) motion “may not be used as a substitute for the ordinary process of appeal once the time for such has passed.” *Chick Kam Choo v. Exxon Corp.*, 699 F.2d 693, 695 (5th Cir. 1983).

In his IFP pleadings, Hanna lists a number of issues for appeal. He contends that he was unable to comply with the district court’s order that he file an amended and superseding complaint because he did not have a copy of his pleadings and did not have enough time to obtain a copy. He asserts that prison officials were at fault with respect to his inability to comply with the district court’s order. Hanna also argues that the magistrate judge’s assessment of the improper joinder issue lacked sufficient detail to guide the district court to a correct result as to the application of Federal Rule of Civil Procedure 20(a) and that the district court’s conclusion regarding improper joinder under Federal Rule of Civil Procedure Rule 18 was incorrect. He contends that the district court’s judgment dismissing his case should be reversed because Federal Rule of Civil Procedure 21 prohibits dismissing a case on account of misjoinder of claims or parties. Hanna also takes issue with the “Blanket Policy” of allowing only 14 days to file objections to reports of the magistrate judge, and with the district court’s practice of requiring prisoners to handle account statements that must be processed by prison officials. Additionally, Hanna asserts in conclusory fashion that striking his pleadings was inappropriate and prejudicial, that his claims were not unexhausted, and that the magistrate judge provided inadequate details to guide the district court to a reliable result on the exhaustion issue.

However, Hanna makes no mention of his postjudgment motions, or the district court’s denials of such motions, in his listing of issues. Though timely, his appeals of the denial of his Rule 60(b) motions did not bring the underlying judgment up for review. *See Bailey v. Cain*, 609 F.3d 763, 767 (5th

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Cir. 2010). Hanna thus fails to raise any discernible reason that the district court abused its discretion in denying his Rule 60(b) motions. *See Halicki v. Louisiana Casino Cruises, Inc.*, 151 F.3d 465, 470 (5th Cir. 1998). He has failed to brief, and has therefore abandoned, the relevant issues. *See Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993) (holding that even pro se appellants must brief arguments in order to preserve them).

Because Hanna fails to show that his appeal raises a nonfrivolous issue, his motion to proceed IFP is DENIED, and the appeal is DISMISSED IN PART as frivolous. *See Baugh*, 117 F.3d at 202 n.24; *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983); 5TH CIR. R. 42.2.

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

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600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

August 20, 2025

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

Regarding: Fifth Circuit Statement on Petitions for Rehearing
or Rehearing En Banc

No. 24-30557 Hanna v. Edwards
USDC No. 3:21-CV-537

Enclosed is a copy of the court's decision. The court has entered judgment under Fed. R. App. P. 36. (However, the opinion may yet contain typographical or printing errors which are subject to correction.)

Fed. R. App. P. 39 through 41, and Fed. R. App. P. 39, 40, and 41 govern costs, rehearings, and mandates. **Fed. R. App. P. 40 require you to attach to your petition for panel rehearing or rehearing en banc an unmarked copy of the court's opinion or order.** Please read carefully the Internal Operating Procedures (IOP's) following Fed. R. App. P. 40 for a discussion of when a rehearing may be appropriate, the legal standards applied and sanctions which may be imposed if you make a nonmeritorious petition for rehearing en banc.

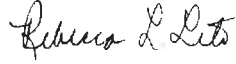
Direct Criminal Appeals. Fed. R. App. P. 41 provides that a motion for a stay of mandate under Fed. R. App. P. 41 will not be granted simply upon request. The petition must set forth good cause for a stay or clearly demonstrate that a substantial question will be presented to the Supreme Court. Otherwise, this court may deny the motion and issue the mandate immediately.

Pro Se Cases. If you were unsuccessful in the district court and/or on appeal, and are considering filing a petition for certiorari in the United States Supreme Court, you do not need to file a motion for stay of mandate under Fed. R. App. P. 41. The issuance of the mandate does not affect the time, or your right, to file with the Supreme Court.

Court Appointed Counsel. Court appointed counsel is responsible for filing petition(s) for rehearing(s) (panel and/or en banc) and writ(s) of certiorari to the U.S. Supreme Court, unless relieved of your obligation by court order. If it is your intention to file a motion to withdraw as counsel, you should notify your client promptly, **and advise them of the time limits for filing for rehearing and certiorari.** Additionally, you MUST confirm that this information was given to your client, within the body of your motion to withdraw as counsel.

Sincerely,

LYLE W. CAYCE, Clerk

A handwritten signature in cursive script, appearing to read "Rebecca L. Leto".

By: _____
Rebecca L. Leto, Deputy Clerk

Enclosure(s)

Mr. Mark Hanna