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NOT RECOMMENDED FOR PUBLICATION

No. 24-6079

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
May 4, 2026
KELLY L. STEPHENS, Clerk

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff-Appellee,	)	
	)	ON APPEAL FROM THE UNITED
v.	)	STATES DISTRICT COURT FOR
	)	THE WESTERN DISTRICT OF
JAMES STUART FALLER II,	)	KENTUCKY
	)	
Defendant-Appellant.	)	

ORDER

Before: COLE, McKEAGUE, and BLOOMEKATZ, Circuit Judges.

Pro se litigant James Stuart Faller II, appeals the denial of his petition for a writ of coram nobis. He also moves to compel the district court to rule on his reconsideration motion. This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. *See* Fed. R. App. P. 34(a). Because the district court has ruled on Faller's reconsideration motion, his motion to compel is moot. And, for the reasons below, we affirm the denial of his coram nobis petition.

A jury convicted Faller of ten tax-related offenses, and the district court sentenced him to 36 months of imprisonment plus three years of supervised release and imposed restitution of over \$140,000. We affirmed his convictions on appeal. *United States v. Faller*, 675 F. App'x 557, 563 (6th Cir. 2017).

In 2022, after Faller had served his sentence and supervised-release term, *see United States v. Faller*, No. 1:13-CR-29-BJB, 2024 WL 2933468, at *1 (W.D. Ky. June 11, 2024), he petitioned for a writ of coram nobis to vacate his convictions. He asserted that he is actually innocent, that the district judge was conflicted, and that the government engaged in misconduct, suppressed exculpatory evidence, and violated his attorney-client privilege. Faller also argued that his

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appellate attorney was ineffective and that this court ignored his own supplemental brief on direct appeal. The district court denied his petition. *Id.* at *5. Faller now appeals.

In reviewing the denial of a coram nobis petition, “we review legal determinations *de novo* and findings of fact for clear error.” *United States v. Castano*, 906 F.3d 458, 462 (6th Cir. 2018). “The writ of *coram nobis* provides a way to collaterally attack a criminal conviction for a person who is no longer in custody.” *Id.* (citation modified). “But the writ is an ‘extraordinary remedy’ used only to correct errors ‘of the most fundamental character.’” *United States v. Singh*, 95 F.4th 1028, 1032 (6th Cir. 2024) (quoting *United States v. Morgan*, 346 U.S. 502, 511–12 (1954)).

To obtain coram nobis relief, a petitioner must show, among other requirements, that “his conviction is causing an ongoing civil disability.” *Id.* An “ongoing civil disability” has three elements: “First, the disability must be causing a present harm; *it is not enough to raise purely speculative harms* or harms that occurred completely in the past. Second, the disability must arise out of the erroneous conviction. Third, the potential harm to the petitioner must be more than incidental.” *Castano*, 906 F.3d at 463 (quoting *United States v. Craig*, 907 F.2d 653, 658 (7th Cir. 1990)).

The district court determined that Faller failed to show that his convictions are causing him an ongoing civil disability. In his petition, Faller asserted that his convictions were “seriously preventing [him] from his professions of past, preventing his ability to get licenses, insurance and other ordinary rights.” (Pet. for Writ of Coram Nobis, R. 405, PageID 8789). But these assertions were vague and speculative; Faller never established that he has in fact been prevented from obtaining these things.

In a reconsideration motion, Faller specified a host of alleged civil disabilities. With respect to employment, he alleged that he “is in the process of seeking a license with the Bar to practice law” but is deemed unsuitable for practice; he was an engineer but is no longer able to obtain the requisite insurance bonds; he was a licensed stockbroker but now “cannot obtain a license”; he is “a high time pilot” but “cannot qualify for specific licenses”; he “cannot resume work as an investigator”; and he used to own a restaurant but now cannot obtain a liquor license. In addition, he was allegedly denied his Fourth, Fifth, Sixth, and Eighth Amendment rights; he has

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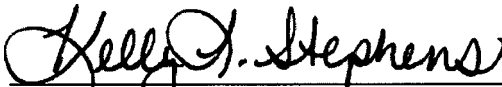
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faced “[p]assport interference” and “travel restrictions”; he lost “private citizenship” in defamation cases; he was denied life insurance; and he cannot have a gun. (Mot. to Recons., R. 456, PageID 9224). But Faller still did not establish that he in fact sought and was denied these licenses, so these harms are “purely speculative.” *Castano*, 906 F.3d at 463. And, in any event, none of these alleged deprivations is “more than incidental” to his convictions. *Id.* (citation modified). As the district court explained in denying Faller’s motion for reconsideration, these are regular consequences of a criminal conviction or mere reputational or economic harms. *United States v. Faller*, No. 1:13-CR-29-BJB, 2025 WL 2145702, at *3 (W.D. Ky. July 28, 2025). So counting them as “ongoing civil disabilities” would render that requirement for coram nobis relief—which “is limited to ‘extreme cases’ in which there were ‘fundamental flaws in the proceedings’”—immaterial. *Castano*, 906 F.3d at 462 (quoting *United States v. Denedo*, 556 U.S. 904, 916 (2009)).

In his appellate brief, Faller maintains that he provided the district court “[p]roof of ongoing civil disabilities, including professional disqualifications and constitutional deprivations.” But he provided no proof, only allegations, which were still insufficient. *See Castano*, 906 F.3d at 463 (explaining that qualifying civil disabilities are not speculative). He also faults the district court for failing to hold an evidentiary hearing on his petition, yet he offers no explanation of how a hearing would have changed the above analysis. Indeed, “the record makes clear that [Faller] isn’t entitled to coram nobis relief,” and “[t]hus, the court didn’t need to hold a hearing before denying his petition.” *Singh*, 95 F.4th at 1034–35.

Therefore, we **DENY** Faller’s motion to compel as moot and **AFFIRM** the district court’s order.

ENTERED BY ORDER OF THE COURT


Kelly L. Stephens, Clerk

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
BOWLING GREEN DIVISION**

UNITED STATES OF AMERICA

PLAINTIFF

v.

No. 1:13-cr-29-BJB

JIM S. FALLER, SR.

DEFENDANT

MEMORANDUM OPINION & ORDER

A federal jury found Jim Faller guilty in 2015 of multiple tax violations: attempting to interfere with the administration of the tax laws, attempting to evade or defeat a tax, filing false tax documents, and willfully failing to file a tax return. *See* Order Setting Sentencing Hearing (DN 234); Criminal Judgment (DN 357) (citing 26 U.S.C. §§ 7201, 7203, 7206(1), 7612). The judge who presided over Faller's trial sentenced him to concurrent terms of imprisonment that totaled 36 months, with 3 years' supervised release to follow. *Id.* The Sixth Circuit affirmed the convictions. *United States v. Faller*, 675 F. App'x 557, 559 (6th Cir. 2017).

Faller has now completed his sentence of imprisonment and supervised release, but still seeks to challenge his conviction. He has employed several litigation tools to do so—a *coram nobis* petition, a civil suit, an amicus brief, requests for hearings and expedition, supplemental briefing, a motion to disqualify all the judges in the Sixth Circuit, and a notice of a new defense theory. *See* DNs 405, 427, 437, 438, 439, 442, 443, 449, 451; *Faller v. United States Department of Justice, et al.*, No. 3:23-cv-526 (W.D. Ky. case filed Oct. 12, 2023). None of these efforts identify any flaw in his conviction or sentence that warrant revisiting it.

A. Petition for writ of *coram nobis*. Faller filed a petition for writ of *coram nobis* approximately 10 months after his supervised release ended. DN 405. "A petition for a writ of *coram nobis* provides a way to collaterally attack a criminal conviction for a person ... who is no longer 'in custody' and therefore cannot seek habeas relief." *Chaidez v. United States*, 568 U.S. 342, 345 n.1 (2013). *Coram nobis* is an "extraordinary writ" reserved for "extreme cases" in which there were 'fundamental flaws in the proceedings.' *United States v. Castano*, 906 F.3d 458, 462 (6th Cir. 2018) (quoting *United States v. Denedo*, 556 U.S. 904, 916 (2009)). It "is generally not appropriate for claims that could have been raised on direct appeal." *Id.* at 464. To receive relief, the petitioner bears the burden of showing "(1) an error of fact; (2) unknown at the time of trial; (3) of a fundamentally unjust character which

probably would have altered the outcome of the challenged proceeding if it had been known.” *United States v. Johnson*, 237 F.3d 751, 755 (6th Cir. 1991). The petitioner also must show (4) that the writ is “necessary to remedy an ongoing civil disability.” *Castano*, 906 F.3d at 463. Although Faller’s arguments arguably address the first three elements to some extent, his petition clearly fails to meet the fourth element. And that failure alone is sufficient to deny the petition. *See United States v. Waters*, 770 F.3d 1146, 1147–48 (6th Cir. 2014) (affirming the denial of *coram nobis* based only on a lack of civil disability).

Faller’s petition makes four arguments: (1) actual innocence based on new evidence allegedly received from the IRS; (2) a Due Process violation during the trial proceedings; (3) violation of his attorney-client privilege through the introduction of trial evidence; and (4) “ineffective assistance of counsel” regarding the Sixth Circuit’s denial of his successive petition for rehearing. Petition at 15–23. Since filing this petition, Faller has also filed several “supplements” purporting to outline a conspiracy by government officials at the IRS and FBI to secure his false conviction and subject him to ongoing harassment. *See, e.g.*, DNs 423, 425, 435.¹

Faller’s petition fails for several reasons. The clearest is the lack of an “ongoing civil disability” stemming from his conviction. *Castano*, 906 F.3d at 463. He does not explain how the past conviction creates a civil disability redressable through *coram nobis*. An “ongoing civil disability” is (1) an actual, present harm (2) arising from an erroneous conviction (3) that is more than incidental. *See United States v. Craig*, 907 F.2d 653, 658 (7th Cir. 1990). At times Faller arguably alludes to “reputational harm and economic harm,” but these “cannot constitute civil disabilities for the purpose of *coram nobis* relief.” *United States v. Brown*, No. 5:12-cr-79, 2022 WL 12399282, at *2 (E.D. Ky. Oct. 17, 2022); *see also Waters*, 770 F.3d at 1147 (reputational injury insufficient); *United States v. Keane*, 852 F.2d 199, 203 (7th Cir. 1988) (financial penalties insufficient). Enhanced penalties for subsequent convictions *may* arise to a civil disability, but not until they are actually imposed by a sentencing judge. *Castano*, 906 F.3d at 463. Although Faller mentions “enhanced penalt[ies] for a recidivist offender” in describing *coram nobis*, Petition at 13, he never asserts that he’s suffered any such enhancement. Because this remains a speculative and inchoate risk, it doesn’t suffice for *coram nobis*. *Castano*, 906 F.3d at 463.

¹ “Canadian Media,” according to Faller, “discovered [a prosecuting] assistant U.S. Attorney was involved with CIA and Faller’s reporting Adam pre-indictment exposed multiple crimes by multiple high-level officials.” DN 425 at 2. This apparently refers to Rick Adam, Faller’s co-defendant in a previous prosecution in the Southern District of Florida. *See United States v. Faller*, No. 97-cr-6063, DN 77 at 5, DN 954 at 3–4 (S.D. Fla. case filed May 15, 1997). Faller stated that his saga began when he reported Adam’s crimes to state and federal authorities, who then initiated a prosecution that included Faller.

And although Faller apparently isn't a licensed attorney, any effects on his law-related activities likely also wouldn't rise to a civil disability. The petition includes only a single sentence making a general claim that his conviction is "preventing [him] from his professions of past,"² and "preventing his ability to get licenses, insurance, and other ordinary rights." Petition at 26. According to the Seventh Circuit, disbarment doesn't count unless the petitioner shows the conviction directly caused it (which Faller hasn't). See *Craig*, 907 F.2d at 659. Nor has Faller alleged that any license has been taken away from him or that he is pursuing one to resume work as an investigator or "legal consultant." See, e.g., Petition at 2. He similarly fails to allege any facts regarding the loss or denial of any insurance policy. Without any specification whatsoever, Faller merely asserts the loss of "other ordinary rights." Petition at 26.

Even if he alleged legally cognizable civil disabilities, nowhere does Faller attempt to explain why they are an actual, present, and direct consequence of his conviction. Compare Petition at 26 with *Craig*, 907 F.2d at 658 ("desire to obtain a desirable job," "possibility of recovering a fine," and general "adverse effects of ... erroneous convictions" are all insufficient to establish a civil disability). Residual reputational effects on his social and professional life are insufficient; otherwise every convicted person might be eligible for *coram nobis* relief, rendering the writ far less than extraordinary. See, e.g., *Keane*, 852 F.2d at 204 ("A strong emotional interest is not enough to produce an Article III case or controversy, and a blot on one's escutcheon, divorced from any particular entitlement to a 'clean record,' does not even involve a liberty interest."). Faller's failure to identify any ongoing civil disability suffices to justify denial of the petition.

This independently sufficient reason for denial obviates the need to wade deeper into Faller's allegations against various federal agencies, judges, and indeed Faller's own former secretaries and colleagues. See *Castano*, 906 F.3d at 463; Petition at 3–5. Many of the issues he raises have already been addressed many times at prior stages of this case and in related litigation. See, e.g., Petition at 20–24. Those rulings command deference and in some instances finality; certainly Faller hasn't explained why this Court should revisit them. See, e.g., *Musacchio v. United States*, 577 U.S. 237, 244–45 (2016) ("The law-of-the-case doctrine generally provides that when a court decides upon a rule of law, that decision should continue to govern the same issues in subsequent stages in the same case.") (cleaned up).

² The meaning of Faller's "professions of past" remain unclear. His past professions reportedly include work as an "investigator and autodidact-lawyer" providing legal consulting services. Petition at 2. The underlying tax case addressed earnings from "services as a consultant and private investigator." Indictment (DN 1) ¶ 2.

Faller complains of a “[s]tolen computer” and denial of his right to appeal, for instance. But the Sixth Circuit’s affirmance on direct appeal addressed the computer and rejected Faller’s claim. *See Faller*, 675 F. App’x at 560 (“Faller makes no showing that the government possessed the laptop, he merely asserts—without any support—that the associate who supposedly sent the computer off for repairs was part of the government’s conspiracy to get him.”). And because *coram nobis* “is generally not appropriate for claims that could have been raised on direct appeal,” the writ is also not appropriate for claims that the petitioner in fact raised on direct appeal. *Castano*, 906 F.3d at 464. So the Court denies Faller’s petition for writ of *coram nobis* because he fails to make the required showing to meet the threshold issue of an ongoing civil disability.

B. Darlene Price’s motion. After Faller filed his petition, a non-party named Darlene Price moved to “intervene as *amicus curiae*” (DN 442). Because she appears to lack any personal interest in Faller’s conviction, the Court construes this as a motion to file an *amicus curiae* brief, not a motion to intervene.

“The Federal Rules of Civil Procedure do not address motions for leave to appear as *amicus curiae* in a federal district court, and the decision to allow an appearance as *amicus curiae* falls under the district court’s inherent authority.” *E.g.*, *Kollaritsch v. Michigan State Univ. Bd. of Trustees*, No. 1:15-cv-1191, 2017 WL 11454764, at *1 (W.D. Mich. Oct. 30, 2017).³ When deciding whether to allow such participation in another’s case, district courts consider the timeliness and usefulness of the brief. *Id.* Even assuming the brief is timely, however, it is not useful.

The bulk of the brief (and the accompanying motion, *see* DN 442-1) is another recitation of Faller’s allegations of a nefarious intergovernmental conspiracy to destroy his life as a law-abiding citizen. Like numerous other filings by Faller, Price’s brief points to no legal sources or factual support that would help the Court assess Faller’s claims. *See* DN 442-1 at 8–11 (asserting concern for Faller’s Equal Protection and Due Process rights). This duplication serves primarily to clog the Court’s docket and slow the flow of judicial decisions for other litigants. Nor is it clear how any such past constitutional violation would amount to an ongoing civil disability. *See Craig*, 907 F.2d at 658 (“[T]he disability must be causing a present harm; it is not enough to raise purely speculative harms or harms that occurred completely in the past.”). So

³ Although Faller’s petition appears as part of his criminal case on the Court’s criminal docket, the Federal Rules of Civil Procedure apply rather than their criminal counterpart. “Because of the similarities between *coram nobis* proceedings and § 2255 proceedings, the § 2255 procedure often is applied by analogy in *coram nobis* cases. It follows, in our view, that although a *coram nobis* motion is a step in a criminal proceeding, it is, at the same time, civil in nature and subject to the civil rules of procedure.” *United States v. Johnson*, 237 F.3d 751, 754 (6th Cir. 2001) (cleaned up).

the Court denies Price's motion to participate—as *amicus* or otherwise—in the case (DN 442).

C. Motion to disqualify. In line with these strident allegations, Faller previously moved (unsuccessfully) to disqualify the magistrate judge. DN 418. He also has sought the direct supervision of a Justice of the Supreme Court in light of the alleged “corruption” in his case. Motion Requesting Oversight (DN 424-1). That corruption allegedly includes “assassination attempts, manufacturing evidence, kidnapping witnesses, judicial corrupt acts, (directly and collateral) cover ups, witness intimidation, extortion, false arrests, holding defendants under indictment for more than (16) years, racketeering, sex trafficking and a plethora of other acts designed to silence a whistleblower.” *Id.* at 2. The Supreme Court doesn't appear to have acted yet on this request.⁴

Faller later moved to disqualify the presiding District Judge, Magistrate Judge Brennenstuhl, and all other judges in the Sixth Circuit. DN 449. After a referral, Judge Brennenstuhl issued a report and a recommendation that the Court deny Faller's disqualification motion. DN 450. Faller filed a timely objection. DN 451. But it identified no “part of the order that is clearly erroneous or is contrary to law.” FED. R. CIV. P. 72(a). This suffices to warrant dismissal.

The Magistrate Judge properly cited the standards to disqualify a judge. DN 450 at 1–4. He also explained in detail how Faller had not made the required showing and failed to demonstrate any bias. *Id.* at 4–5. Instead, Faller's motion had merely

⁴ Supplemental filings by Faller make further unfounded and generalized accusations of corruption against the federal judiciary as a whole. *See, e.g.*, DN 425 at 1–2:

This Court has entered some troubling orders [in] this matter (continuing a *prima facie* false conviction) and the collateral conduct of the government in this and other matters is not only outrageous, it is the epitome of constitutional violations. The undersigned has screamed to plugged ears of the horrific travesties taking place that caused the death of two of his children, the rape of his child and the suicide by cancer of his wife, not to mention (8) eight false indictments that there is a CONSPIRACY. The undersigned worked for and advised United States Justice [*sic*] Posner for a year and advised United States Justice that the current status quo of the *Judicial Conference's* position to deny, deny, deny *pro se* litigants and never acknowledge a conspiracy, even after serious proof, is perhaps, one of the most dangerous ongoing threats to our nation. This same threat is now at the door of this Court, to die here or continue in an even stronger form. As Posner stated in his last days of practice, “no one has even heard of the things that have happened to you, Faller.” That's because no one ever survived it, [but] I did.

However troubling these accusations, none appear supported by facts in the record, and none would address the deficiencies of his *coram nobis* petition described above even if they were proven.

“recit[ed] the allegations he has advanced in support of his underlying” petition, which the Court denied above. *Id.* at 2. The objection, rather than identifying and explaining any legal or factual error by the Magistrate Judge, again repeats similar allegations about a mass governmental conspiracy against him—apparently extending to *all* judges in the Sixth Circuit. This lack of legal argument will not suffice to sustain an objection.

D. Motion for injunction. Finally, Faller has asked this Court to enjoin the IRS from “any further harassment” of him “pending the outcome” of his petition for writ of *coram nobis*. DN 452 at 1 (citing FED. R. CIV. P. 65). He seeks to block the IRS from collecting money he owes as a result of convictions he deems unlawful. *See id.* at 4–6. Faller hasn’t shown any likelihood of success on the merits (the petition has now been denied), irreparable harm, substantial harm to others or harm to the public (who’d benefit from payment of his tax-related debts). *See, e.g., Tumblebus Inc. v. Cranmer*, 399 F.3d 754, 760 (6th Cir. 2005). So the Court denies the motion for an injunction (DN 452).

E. Faller’s other filings. Since filing the petition, Faller has filed multiple “supplement[s]” and “notice[s]” attempting to expedite ruling. *See, e.g.*, DNs 405, 423, 432, 451.⁵ These filings did not provide further direction on the legal issues presented or factual material unavailable at the time Faller initially petitioned for a writ of *coram nobis*. Instead, they are almost exclusively duplicative recitations of Faller’s grievances with respect to his history with the criminal-justice system. And they have succeeded only in delaying the Court’s efforts to adjudicate his petition and other motions.

At times Faller has falsely claimed that he has, for example, been falsely indicted seven times and that each indictment has been dismissed. “Notice of No Conspiracy Theory” (DN 432) at 1. But Faller’s petition seeks to overturn a *guilty* verdict on one of those indictments, and this is not the first time an indictment has resulted in Faller’s conviction. *See, e.g., id.* at 2 (“The Courts throughout the United States have bought into the assertion that Faller is a conspiracy theorist, notwithstanding the fact that Faller has been falsely indicted ... seven times. All of those indictments have been dismissed ...”); *United States v. Murray*, 154 F. App’x 740 (11th Cir. 2005) (affirming Faller’s convictions in a previous case). It’s not clear from the record that *any* of these indictments were dismissed. But whatever relief the many filings and pending motions in this case seek, the *coram nobis* petition is at

⁵ Faller also filed three “motion[s] to notice” that his petition was pending (DN 437), that he filed a petition for writ of *mandamus* in the Sixth Circuit (DN 438), and that his related civil case supports the *coram nobis* petition (DN 439). These motions do not request relief independent of his original petition, and their content does not affect the outcome of this ruling.

their root.⁶ And to the extent the information in these supplemental filings isn't duplicative or obviously wrong, it wouldn't affect the Court's ruling above on the *coram nobis* petition.

ORDER

The Court denies Faller's petition for writ of *coram nobis* (DN 405), motion for a hearing (DN 443), objection to the report and recommendation (DN 451), and motion for injunctive relief (DN 452). The Court adopts the Magistrate Judge's report and recommendation (DN 450) denying the motion to disqualify (DN 449). Finally, the Court denies the motion to participate as *amicus curiae* (DN 442). Given the denials, the Court also denies as moot Faller's motion to expedite the case (DN 427), motion to "notice action is due" (DN 437), and motions to notice (DNs 438 & 439). The Court further denies any and all pending motions as moot and strikes this case from the Court's active docket.



Benjamin Beaton, District Judge

United States District Court

June 10, 2024

⁶ After filing his petition, Faller filed a motion for a hearing (DN 443). The motion cites no law supporting the request for a hearing, but it refers to letters from Darlene Price (DN 444-2) and Kentucky State Senator Adrienne Southworth (DN 444-3) that support the request. These letters likewise fail to cite any law; they merely reiterate the allegations of a governmental conspiracy against Faller. *Compare* DNs 405 and 444-2. Because the Court lacks any reason to believe a hearing would be fruitful, the Court denies Faller's request for one. *Cf. Huff v. United States*, 734 F.3d 600, 607 (6th Cir. 2013) (in *habeas corpus* cases, a district court must hold a hearing only if the ruling will turn on factual disputes that are not clearly contradicted by the record); *Schriro v. Landrigan*, 550 U.S. 465, 474 (2007) ("In deciding whether to grant an evidentiary hearing, a federal court must consider whether such a hearing could enable an applicant to prove the petition's factual allegations, which, if true, would entitle the applicant to federal habeas relief.").

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
BOWLING GREEN DIVISION

UNITED STATES OF AMERICA

PLAINTIFF

v.

No. 1:13-cr-29-BJB

JIM S. FALLER, SR.

DEFENDANT

MEMORANDUM OPINION & ORDER

This *pro se* reconsideration motion asks the Court to revisit its 2024 rejection of Jim Faller's *coram nobis* petition attacking his 2015 federal convictions for tax-related offenses. That order (DN 455) also denied a motion to disqualify the district and magistrate judges considering it—as well as all other judges within this Circuit—and Faller similarly seeks reconsideration of that decision. Neither request succeeds.

A. Procedural History. Many pages of judicial writing have attempted to explain Faller's arguments and the reasons why they fail—both in this criminal case and a parallel civil suit. See, e.g., *United States v. Faller*, 675 F. App'x 557 (6th Cir. 2017); *Faller v. United States Department of Justice*, No. 3:23-cv-526, 2024 WL 4369902 (W.D. Ky. Sept. 30, 2024). Particularly since this motion repeats many of those contentions, this opinion won't recapitulate them in full.

In brief: A different judge presided over Faller's trial, which concluded with a jury verdict (DN 223) that he attempted to interfere with the administration of the tax laws, attempted to evade or defeat a tax, filed false tax documents, and willfully failed to file a tax return. The Court sentenced him to three years in prison, followed by three years of supervised release. *Id.* The Sixth Circuit upheld the convictions on appeal. DN 392 (6th Cir. Op.); *Faller*, 675 F. App'x at 559.

Years later, Faller filed a petition for a writ of *coram nobis*—an “extraordinary writ” that, in some “extreme cases,” allows convicted persons no longer “in custody” to challenge “fundamental flaws in the proceedings.” *United States v. Castano*, 906 F.3d 458, 462 (6th Cir. 2018) (quoting *United States v. Denedo*, 556 U.S. 904, 916 (2009)). Relief requires, among other showings, that the writ is “necessary to remedy an ongoing civil disability.” *Castano*, 906 F.3d at 463. Faller's *coram nobis* petition failed because he did not provide evidence of any legally cognizable civil disability or

explain why any such harm was an “actual, present, and direct consequence of his conviction.” DN 455, *Faller*, 2024 WL 2933468, at *2.

That ruling also denied Faller’s motion to disqualify the presiding District Judge, Magistrate Judge Brennenstuhl, and all other judges in the Sixth Circuit. *Id.* at *4–5. This Court affirmed Judge Brennenstuhl’s findings that Faller did not make the required showing of legal or factual error by the Magistrate Judge and failed to demonstrate any bias. *Id.*

Faller subsequently filed this motion for reconsideration, a request to supplement that motion (DN 458), a notice of appeal (DN 459), and a motion to expedite (re)consideration of the pending motion (DN 465).

B. Hearing. Faller’s various motions contain an embedded and repeated request for a hearing on his motions. *See* Motion for Reconsideration at 2, 8, 9, 11, 15, 16. He claims that “[c]redible testimony and evidence are standing by to present to this Court that will make the record clear that Faller is a victim of these allegations, and that the conviction is a complete disgrace to our system.” *Id.* at 15. Faller believes that a hearing is necessary to prove that he has faced ongoing civil disabilities, *id.* at 5, to establish that his “conspiracy theory” is not just a “theory,” *id.* at 9, and to avoid a “textbook deprivation of *due process* rights,” *id.* at 16.

Courts possess ample discretion whether to hold a hearing in circumstances such as this. Judges do *not* “need to hold a hearing before denying [a *coram nobis*] petition” if “the record makes clear that [the petitioner] isn’t entitled to *coram nobis* relief.” *United States v. Singh*, 95 F.4th 1028, 1034–35 (6th Cir. 2024) (citing *Blanton v. United States*, 94 F.3d 227, 235 (6th Cir. 1996)). Instead, judges “may” exercise discretion to “submi[t] and determin[e] motions on briefs, without oral hearings.” FED. R. CIV. P. 78(b); *see McIntyre v. Schweitzer*, No. 5:20-cv-2577, 2023 WL 11926124 (N.D. Ohio. Mar. 6, 2023) (citing *Brown v. Allen*, 344 U.S. 443, 465 (1953) (“Since the complete record was before the District Court, there was no need for rehearing or taking of further evidence.”)) (emphasis omitted).

That’s the case here: even accepting Faller’s plausible, non-fantastical allegations as true, they would not entitle him to reconsideration of a prior ruling resulting in the extraordinary relief of *coram nobis*. So the Court denies the hearing request and considers the reconsideration arguments on the paper record.

C. Standard for Reconsideration. “Although the Federal Rules of Criminal Procedure do not authorize motions for reconsideration, the Supreme Court determined many years ago that defendants may file them.” *United States v. Mack* 831 F. App’x 787, 787 (6th Cir. 2020) (citing *United States v. Healy*, 376 U.S. 75, 78

(1964)). Given the lack of a criminal rule on point, judges “rely on ‘analogous precedent arising under the Federal Rules of Civil Procedure.’” *United States v. Johnson*, No. 20-5873, 2022 WL 35406, at *5 (6th Cir. Jan. 3, 2022) (quoting *United States v. LaDeau*, 734 F.3d 561, 572 n.3 (6th Cir. 2013)).

Two potential options appear in this circuit’s caselaw. One is Rule 59(e), which allows parties to seek to alter or amend a judgment within 28 days; the other is Rule 60(b), which authorizes relief from a final judgment, order, or proceeding within one year. But practice within this circuit hasn’t always remained consistent. *See, e.g., United States v. Carney*, No. 3:21-cr-98, 2022 WL 678648, at *1 (M.D. Tenn. Mar. 4, 2022) (applying Rule 59(e) to reconsideration motion filed more than 28 days after denial of suppression motion); *United States v. Davis*, No. 2:17-cr-20640-10, 2022 WL 4078886, at *1 (E.D. Mich. Sep. 6, 2022) (applying both Rule 59(e) and Rule 60(b) to the same reconsideration motion postmarked within 28 days of denial of motion to vacate).

The Sixth Circuit has supplied a principle to demark the two rules’ criminal domains, however. Their scope tracks the length of time between the judgment and request for its reconsideration. In districts (such as this) without “a local rule providing for” a motion for reconsideration, “a motion with that title that is filed within 28 days can be construed as a motion to alter or amend the judgment under Rule 59(e).” *In re Greektown Holdings, LLC*, 728 F.3d 567, 574 (6th Cir. 2013). And “one that is filed after 28 days can be construed as a motion for relief from judgment under Rule 60(b).” *Id.*

This is significant because “[a]lthough Rule 59(e) relief is rare, relief under Rule 60(b) is *even more* extraordinary.” *See Zucker v. City of Farmington Hills*, 643 F. App’x 555, 562 (6th Cir. 2016) (emphasis added). Faller filed his reconsideration motion 10 days after the rejection of his petition. So Rule 59(e) applies here.

Even under Rule 59, reconsideration is heavily disfavored: “Motions to alter or amend a judgment pursuant to Fed. R. Civ. P. 59(e) are ‘extraordinary’ in nature and should be ‘sparingly granted.’” *Philadelphia Indem. Ins. Co. v. Youth Alive, Inc.*, 857 F. Supp. 2d 647, 655 (W.D. Ky. 2012) (citation omitted). A party may seek Rule 59(e) reconsideration on specific and limited grounds: (1) a clear error of law, (2) newly discovered evidence, (3) an intervening change in controlling law, or (4) the need to prevent manifest injustice. *Intera Corp. v. Henderson*, 428 F.3d 605, 620 (6th Cir. 2005). “Manifest injustice” has been defined as “[a]n error in the trial court that is direct, obvious, and observable.” *United States v. Canal Barge Co., Inc.*, No. 4:07-cr-12, 2009 WL 541267, at *2 (W.D. Ky. Mar. 4, 2009) (citation omitted). A good measure

of “informed discretion” applies to a district-court whether to disturb its prior ruling. *Huff v. Metro. Life Ins. Co.*, 675 F.2d 119, 122 (6th Cir. 1982). This makes sense given the strong “interest in the finality of a decision.” *Cobble v. T-Mobile Spring*, No. 3:21-cv-415, 2025 WL 1372447, at *7 (W.D. Ky. May 12, 2025). Importantly, “parties cannot use a motion for reconsideration to raise new legal arguments that could have been raised before a judgment was issued.” *Roger Miller Music, Inc. v. Sony/ATV Publ’g, LLC*, 477 F.3d 383, 395 (6th Cir. 2007) (citation omitted). Faller must “clearly establish” that he satisfies at least one of the four grounds for relief. *Id.* (citations omitted).

As discussed below, Faller demonstrates none of this.

D. *Coram Nobis*

Faller primarily challenges this Court’s holding that he did not show a legally cognizable ongoing civil disability sufficient for a writ of *coram nobis*. Motion for Reconsideration at 3–5. “[A] conviction,” he contends, “scar[s]” the convict and “horribly affect[s]” virtually “every aspect in life,” “speak[ing] in axiomatic resolve to a horrific Civil Disability.” *Id.* at 3–4. To the extent Faller implies that the fact of a conviction alone suffices to create a civil disability under the *coram nobis* doctrine, he is wrong. The caselaw assesses the ongoing consequences—not just the fact—of past criminal convictions. *See, e.g., Castano*, 906 F.3d at 463 (“*coram nobis* is only appropriate when necessary to remedy an ongoing civil disability” which “must arise out of the erroneous conviction.”) (citation omitted); *United States v. Waters*, 770 F.3d 1146, 1147 (6th Cir. 2014) (“The support for the ongoing disability requirement is found in the history of the writ and in the underlying considerations regarding finality.”).

The motion goes on to list several such “substantial ongoing statutory Civil Disabilities”—purported ongoing harms that broadly fall into three categories: (a) licenses (pilot, law, engineering, stock-trading, PI, and liquor), (b) Constitutional rights (Second, Fourth, Fifth, Sixth, and Eighth), and (c) other personal injuries. Motion for Reconsideration at 4. Faller repeats the same general injuries from his original *coram nobis* petition, which vaguely alleged the deprivation of “licenses, insurance, and other ordinary rights,” economic and reputational harm, and the prevention of his “professions of [the] past.” *Faller*, 2024 WL 2933468, at *2–3. But now Faller provides examples of these allegations, including the specific licenses and Constitutional rights denied, and his “loss of private citizenship” based on his conviction status making him a public figure. Motion for Reconsideration at 4.

These arguments identify no clear legal error in the Court's prior ruling. Faller tacitly accepts the "*Castano*" standard, which requires a petitioner to show that the writ is "necessary to remedy an ongoing civil disability." DN 455, *Faller*, 2024 WL 2933468, *2 (quoting *Castano*, 906 F.3d at 463). Instead, he disagrees with the prior ruling's application of that standard to his factual allegations and seeks to add more detail to his prior submissions. These arguments fail to warrant reconsideration.

First, Faller's new injury allegations arrive too late. He provides no reason why he couldn't have identified any newly presented civil disability (or description thereof) before this Court's ruling on his original petition. Faller may not "raise new legal arguments that could have been raised" with his writ of *coram nobis*. See *Roger Miller Music, Inc.*, 477 F.3d at 395 (citation omitted).

Regardless, Faller hasn't shown that any of the previously alleged civil disabilities were wrongly categorized in the prior opinion. "An 'ongoing civil disability'" must be "(1) an actual, present harm (2) arising from an erroneous conviction (3) that is more than incidental." *Faller*, 2024 WL 2933468, *2 (citing *United States v. Craig*, 907 F.2d 653, 658 (7th Cir. 1990)). Faller's assertion, for example, that his conviction led to a denial of his Fourth Amendment rights in a decade-old case by "convinc[ing] a court ... to issue an illicit search warrant" would not qualify; nothing shows *ongoing* Fourth Amendment violations (that is, "present harm" from a past conviction). See Motion for Reconsideration at 4. A petitioner must show "that any civil disability *presently* affects him as opposed to affecting him in the past or potentially in the future." *United States v. Brown*, No. 5:12-cr-79, 2022 WL 12399282, at *2 (E.D. Ky. Oct. 17, 2022) (emphasis in original). Other harms he alleges are mere reputational injuries, which are not legally cognizable. Motion for Reconsideration at 4. As previously noted, neither reputational harm nor economic harm "constitute civil disabilities for the purpose of *coram nobis* relief." DN 455, *Faller*, 2024 WL 2933468, at *2 (quoting *Brown*, 2022 WL 12399282, at *2; citing *Waters*, 770 F.3d at 1147 (reputational injury insufficient); citing also *United States v. Keane*, 852 F.2d 199, 203 (7th Cir. 1988) (financial penalties insufficient)). Allowing such injuries—which are part and parcel of standard criminal convictions—to qualify as a civil disability that is "more than incidental" would transform this "extraordinary" writ and stretch it far beyond "extreme cases." See *Castano*, 906 F.3d at 462 (citation omitted). Nothing in Faller's petition or the criminal caselaw suggests it should ever reach the majority of criminal defendants who maintain, even post-judgment, that their convictions were unjust and deleterious.

Further, despite his claim to have supplied new evidence warranting a hearing and reconsideration, Faller has not pointed to any "newly discovered evidence" that

might justify another look. *Intera*, 428 F.3d at 620. No citations, exhibits, or other documentation supports his argument, for example, that he lost professional licenses. Faller still provides no evidence that his conviction has prevented him from obtaining a legal license, for example—only asserting that he “is in the process of seeking a license.” Motion for Reconsideration at 4. This sort of “purely speculative” harm is not within the scope of *coram nobis*. *Brown*, 2022 WL 12399282, at *2 (quoting *Castano*, 906 F.3d at 463) (emphasis omitted).

Faller’s only attached exhibit is his own sworn affirmation. DN 456-1. Faller already submitted this affirmation to this Court in a civil case where he attempted to use seven different legal theories to sue the United States Department of Justice, unknown FBI agents, unknown IRS agents, and the Commonwealth of Kentucky “through” Governor Andy Beshear. *See Faller*, 2024 WL 4369902, at *1. This Court dismissed that case with prejudice. *Id.* at *9. Faller does not explain whether (and, if so, why) this exhibit was previously unavailable. The exhibit is not newly discovered evidence.

Finally, Faller cites no change in the law, nor does he articulate any injustice—manifest or otherwise—that would warrant reopening the case. Faller repeatedly portrays himself as a “victim of wrongful prosecution.” Motion for Reconsideration at 2. But he does not show an error in this Court’s denial of his *coram nobis* petition “that is direct, obvious, and observable.” *Canal Barge Co., Inc.*, 2009 WL 541267, at *2.

E. Disqualification

In support of his challenge to the denial of his disqualification motion, Faller attaches his sworn affirmation in a related civil case. Motion for Reconsideration at 10. Faller spends less than a page disputing this Court’s denial of his motion to disqualify. *See id.* at 10–11. Most of his analysis, instead, is spent making a variety of eyebrow-raising allegations, including “[a]ssassination attempts, suicides, vast corruption, kidnapping witnesses, etc.” through an allegedly nefarious intergovernmental conspiracy. *Id.* at 11.

This motion fails to satisfy any of the four reconsideration factors and plainly fails on the merits in any event. Faller again identifies no legal error, clear or otherwise; provides no proof, regardless of whether it was previously available; cites no change in the law; and fails to articulate any injustice from this judge’s failure to recuse (or purport to “disqualify” any and all other judges). He merely recites the alleged conspiracy against him. *Id.* at 10–11.

F. Dispute of “underlying charges.” This Court will not separately analyze Faller’s dispute of his “underlying charges,” although those critiques comprise the bulk of his motion to reconsider. In short, he repeats the same claim that he has made in every filing: he is “a victim of wrongful prosecution” at the hands of an “incredibly brilliant, influential and evil former prosecutor from the SDFL” and many agents of the government and judiciary more broadly. *Id.* at 2. But this motion to reconsider centers on the Court’s previous denial of his *coram nobis* petition and motion to disqualify, not the validity of Faller’s original conviction a decade ago after a jury trial and before the Sixth Circuit’s affirmance.

Again, this argument turns old soil already tilled in the *coram nobis* order (and the civil dismissal as well). Faller already claimed to face corruption and assassination attempts by various federal agencies, judges, and his former secretaries and colleagues. DN 455, *Faller*, 2024 WL 2933468, at *2. Whether true or false, these are sad allegations. As previously explained, “[m]any of the issues he raises have already been addressed many times at prior stages of this case and in related litigation.” *Id.* at *2. “Those rulings command deference and in some instances finality.” *Id.* (citing *Musacchio v. United States*, 577 U.S. 237, 244–45 (2016)). Those issues are not related to this Court’s motion for reconsideration.

G. Supplement to Motion for Reconsideration

Faller’s attempt to supplement (DN 458) his reconsideration motion comes later still and adds little if anything to the legal issues or factual material presented in his initial motion. Instead, like Faller’s motion for reconsideration, it almost exclusively duplicates Faller’s allegations of corruption and other “outrageous events.” See Motion to Supplement at 1–2. He also includes a section titled “WHAT[’]S THE BIG DEAL” and a “statement of sufferings.” *Id.* at 4–8.

Any “new evidence” that he cites (and, to be clear, none is obviously new and material) would not change this Court’s denial of his motion for reconsideration. Like the evidence in his original motion for reconsideration, this arrives too late: Faller could have included it with his original *coram nobis* petition. He may not “raise new legal arguments that could have been raised before a judgment was issued.” See *Roger Miller Music, Inc.*, 477 F.3d at 395. Regardless, Faller’s “new evidence” doesn’t show that he has a legally cognizable ongoing civil disability. He recites corruption and economic harm he experienced “since long ago.” See Motion to Supplement at 2–3. *Coram nobis* is not for harms faced “long ago.” It is for present harms. See *Faller*, 2024 WL 2933468, *2 (citing *Craig*, 907 F.2d at 658). To the extent that the

information in this supplement isn't duplicative or obviously wrong, it wouldn't affect the Court's ruling above on the motion for reconsideration.

ORDER

Because Faller has not met the demanding standard for relief under Rule 59(e), particularly as it might apply to the extraordinary remedy of *coram nobis* attacking a long-final criminal judgment, the Court denies his motion for reconsideration (DN 456). For this same reason, the Court similarly denies Faller's supplement to his motion for reconsideration (DN 458). Because the complaint itself makes clear that Faller is not entitled to relief, his request for a hearing likewise fails. *See Singh*, 95 F.4th at 1034–35. The Court also denies Faller's motion to expedite the ruling on his motion to reconsider (DN 465) as moot, given its dismissal of his claims.

No. 24-6079

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Jun 15, 2026
KELLY L. STEPHENS, Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JAMES STUART FALLER II,

Defendant-Appellant.

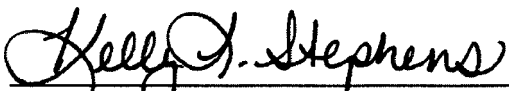
O R D E R

BEFORE: COLE, McKEAGUE, and BLOOMEKATZ, Circuit Judges.

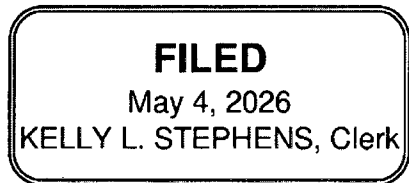
The court received a petition for rehearing en banc. The original panel has reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. The petition then was circulated to the full court. No judge has requested a vote on the suggestion for rehearing en banc.

Therefore, the petition is denied.

ENTERED BY ORDER OF THE COURT


Kelly L. Stephens, Clerk

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT



No. 24-6079

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JAMES STUART FALLER II,

Defendant-Appellant.

Before: COLE, McKEAGUE, and BLOOMEKATZ, Circuit Judges.

JUDGMENT

On Appeal from the United States District Court
for the Western District of Kentucky at Bowling Green.

THIS CAUSE was heard on the record from the district court and was submitted on the briefs without oral argument.

IN CONSIDERATION THEREOF, it is ORDERED that the order of the district court is AFFIRMED.

ENTERED BY ORDER OF THE COURT


Kelly L. Stephens, Clerk

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
BOWLING GREEN DIVISION
CRIMINAL ACTION NO. 1:13-CR-00029-BJB-HBB-1

JIM S. FALLER, SR.

PETITIONER/DEFENDANT

VS.

UNITED STATES OF AMERICA

RESPONDENT/PLAINTIFF

MEMORANDUM OPINION
AND ORDER

Before the Court is a motion (DN 406, DN 408 **SEALED**) by Petitioner Jim S. Faller, Sr. requesting leave to file under seal Exhibits 1 and 5 to his Petition for Writ of Coram Nobis (DN 405). As grounds for his motion, Faller claims that Exhibit 1 contains affidavits previously sealed due to safety of the affiants; and Exhibit 5 contains “tax transcripts” and are ordinarily not available for public access (DN 406). For the reasons set forth below, Faller’s motion is **GRANTED in part and DENIED in part.**

APPLICABLE LAW

Federal Rule of Civil Procedure 5.2(d) and Local Rule 5.6 allow the Court to order that a filing be made under seal. There is, however, a strong presumption favoring public access to judicial documents. See Shane Grp., Inc. v. Blue Cross Blue Shield of Mich., 825 F.3d 299, 305 (6th Cir. 2016) (citation omitted). “Only the most compelling reasons can justify non-disclosure of judicial records.” In re Knoxville News Sentinel Co., 723 F.2d 470, 476 (6th Cir. 1983) (citation omitted). “The public has both a constitutional and a common law presumptive right of access to civil proceedings and judicial records.” Holly v. UPS Supply Chain Sols., Inc., No. 3:13-CV-980-DJH-CHL, 2015 U.S. Dist. LEXIS 80231, at *7 (W.D. Ky. June 22, 2015) (quoting In re Southeastern Milk Antitrust Litig., 666 F. Supp. 2d 908,

915 (E.D. Tenn. 2009)). Thus, “[p]arties and counsel should presume that all documents filed in district court should be available for the public to access and that restricting public access can occur only in limited circumstances, as set forth in this Rule.” LR 5.6(a).

The party that seeks to overcome the presumption favoring public access to judicial documents “must state why sealing is required and must establish that the document sought to be filed under seal is entitled to protection from public disclosure.” LR. 5.6(c). To satisfy this burden, the moving party must show: “(1) a compelling interest in sealing the records; (2) that the interest in sealing outweighs the public’s interest in accessing the records; and (3) that the request is narrowly tailored.” Kondash v. Kia Motors Am., Inc., 767 F. App’x 635, 638 (6th Cir. 2019).

Where a party can show a compelling reason for sealing, the party must then show why those reasons outweigh the public interest in access to those records and that the seal is narrowly tailored to serve that reason. To do so, the party must “analyze in detail, document by document, the propriety of secrecy, providing reasons and legal citations.”

Id. (citation omitted). If a district court opts to seal court records, “it must set forth specific findings and conclusions ‘which justify nondisclosure to the public.’” Rudd Equip. Co., v. John Deere Constr. & Forestry Co., 834 F.3d 589, 594 (6th Cir. 2016) (citation omitted).

DISCUSSION

Faller has asserted that Exhibit 1 “contains affidavits previously sealed due to safety of the affiants” (DN 406). A valid affidavit is “a written or printed declaration or statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before a person having authority to administer such oath or affirmation.” Granada v. United States, 51 F.3d 82, 84 (7th Cir. 1995) (citing Black’s Law Dictionary 58 (6th ed. 1990)). Contrary to Faller’s assertion, Exhibit 1 does not contain affidavits (DN 409 Pages 1-4). Rather, there is a single document in Exhibit 1, and it does not constitute as an affidavit because it sets

forth a rambling four-page story by an unidentified individual (Id.). Blatantly absent from the account is the requisite confirmation by oath or affirmation of the person making it, taken before a person having authority to administer such oath or affirmation. *See Granada*, 51 F.3d at 84. Moreover, even if Faller resubmitted the document in a format that fully satisfied the requirements of an affidavit, it is inconceivable that making the document available for the public to access will pose any safety concerns to the affiant. Additionally, Faller has made no effort to substantiate his bare assertion that this document had previously been filed under seal by another court. In sum, Faller has failed to establish that the document in Exhibit 1 is entitled to protection from public disclosure.

Next, Faller asserts that Exhibit 5 contains “tax transcripts” that are “ordinarily not for public access” (DN 406). But Exhibit 5 actually contains a number of documents (DN 409-1 Pages 1-2; DN 409-2 Pages 1-2; DN 409-3 Pages 1-13). The first of which is a March 16, 2017, affidavit of Adrienne Gilbert, who at the time was the Deputy Chief of Staff for the Lieutenant Governor of Kentucky (DN 409-1 Pages 1-2). Essentially, Ms. Gilbert’s affidavit encourages an unidentified federal court (case No. 16-5168) “to expedite the rehearing of the instant matter and to pay particular attention to the underlying reasons for the surface actions taken by parties in this case” (Id.). Ms. Gilbert’s affidavit also states, “[t]his matter and its outcome are of substantial importance to the Commonwealth of Kentucky and its investigation of corruption” (Id.). This is an innocuous affidavit. Thus, Faller has failed to satisfy his burden of demonstrating that it is entitled to protection from public disclosure.

The next document in Exhibit 5 is a July 13, 2022, email from United States Congressman Andrew Garbarino, who represents the 2nd District of New York (DN 409-2 Pages 1-2). This is an innocuous email updating Faller on the status of email inquiries, on Faller’s

behalf, that Representative Garbarino sent to the FBI and the Supreme Court (Id.). Thus, Faller has failed to satisfy his burden of establishing that this email is entitled to protection from public disclosure.

The next part of Exhibit 5 is made up of three letters from the IRS to Faller dated September 10, 2020, December 17, 2020, and November 12, 2020 (DN 409-3 Pages 1-5). Except for Faller's taxpayer identification number which is set forth in two places on each letter (Id. at Pages 1-5), these three letters are innocuous and should be available for the public to access. Therefore, Faller is directed to refile the three letters after he has redacted or obscured his taxpayer identification number from each letter.

The final part of Exhibit 5 is made up of four account transcripts that pertain to Faller and address the tax periods December 31, 2006, December 31, 2007, December 31, 2008, and December 31, 2009 (DN 409-3 Pages 6-13). The four documents contain Faller's taxpayer identification number and private information concerning outstanding balances that he owes in taxes and penalties for each of the four tax periods (Id.). Considering the circumstances, Faller has a compelling interest in sealing these four account transcripts; his interest in sealing outweighs the public's interest in accessing the records; and his request as to these documents is narrowly tailored. Therefore, these four account transcripts will be filed under seal.

ORDER

IT IS HEREBY ORDERED that Faller's motion to file Exhibits 1 and 5 under seal (DN 406, DN 408 SEALED) is **GRANTED in part and DENIED in part**.

IT IS FURTHER ORDERED that the document in Exhibit 1 (DN 409 Pages 1-4) shall be filed in the Court record as Exhibit 1 to Faller's Petition for Writ of Coram Nobis (DN 405). For the reasons set forth above, this document should be available for the public to access.

IT IS FURTHER ORDERED that the following documents in Exhibit 5 (DN 409-1 Pages 1-2; DN 409-2 Pages 1-2) shall be filed in the Court record as a part of Exhibit 5 to Faller's Petition for Writ of Coram Nobis (DN 405). For the reasons set forth above, these two documents should be available for the public to access.

IT IS FURTHER ORDERED that **by no later than November 18, 2022**, Faller shall refile the three letters from the IRS (DN 409-3 Pages 1-5) with his taxpayer identification number redacted from each letter. The Clerk of the Court will then file the three letters as a part of Exhibit 5 to Faller's Petition for Writ of Coram Nobis (DN 405). For the reasons set forth above, these three letters should be available for the public to access.

IT IS FURTHER ORDERED that the four account transcripts in Exhibit 5 (DN 409-3 Pages 6-13) **shall be filed under seal** as a part of Exhibit 5 to Faller's Petition for Writ of Coram Nobis (DN 405). For the reasons set forth above, these four account transcripts should not be available for the public to access.

November 10, 2022


H. Brent Brennenstuhl
United States Magistrate Judge

Copies: James S. Faller, Sr., *pro se*
Counsel of Record

IV. STANDARD OF REVIEW

The writ of *coram nobis* “provides a way to collaterally attack a criminal conviction for a person ... who is no longer ‘in custody’ and therefore cannot seek *habeas* relief under 28 U.S.C. § 2255 or § 2241.” *Chaidez v. United States*, 568 U.S. 342, 345 n.1 (2013). *Coram nobis* petitioners face a high burden. The writ of *coram nobis* is an “extraordinary writ,” used when necessary to redress errors **“of the most fundamental character.”** *United States v. Morgan*, 346 U.S. 502, 512 (1954). To protect the finality of judgments, *Coram nobis* is limited to “extreme cases” in which there were “fundamental flaws in the proceedings.” *United States v. Denedo*, 556 U.S. 904, 916 (2009). It is presumed that the proceedings leading to the prior conviction were correct, and “the burden rests on the accused to show otherwise.” *Morgan*, 346 U.S. at 511. The petitioner must also demonstrate that correction of the error “probably would have altered the outcome of the challenged proceeding.” *Pilla v. United States*, 668 F.3d 368, 372 (6th Cir. 2012).¹ Because *Coram nobis* is an extraordinary remedy, there are several limitations on its use. First, a writ of *Coram nobis* will not issue when alternative remedies are available. *Denedo*, 556 U.S. at 911. Prisoners in federal custody have access to habeas relief under Section 2255 and are barred from *Coram nobis* relief. *See id.*; *Chaidez*, 568 U.S. at 345 n.1. But a prisoner in custody for a subsequent conviction cannot use Section 2255 to challenge a prior conviction for which the sentence has been served and under which the defendant is no longer “in custody.” *Daniels v. United States*, 532 U.S. 374, 382 (2001). Next, *Coram nobis* is only appropriate when necessary to remedy an ongoing civil disability. *United States v. Waters*, 770 F.3d 1146, 1147 (6th Cir. 2014) (citing *United States v. Bush*, 888 F.2d 1145 (7th Cir. 1989); *United States v. Keane*, 852 F.2d 199 (7th Cir. 1988)). A qualifying civil disability must meet the following test: First, the disability must be causing a present harm; it is not enough to raise purely speculative harm or harms that

occurred completely in the past. Second, the disability must arise out of the erroneous conviction. Third, the potential harm to the petitioner must be more than incidental. *United States v. Craig*, 907 F.2d 653, 658 (7th Cir. 1990) (emphasis added). One injury rising to the level of a civil disability is an enhanced penalty for a recidivist offender. *See id.*; *Daniels*, 532 U.S. at 380.

V. CONGRESSIONAL RECOVERY OF STOLEN/HIDDEN TAX FILES

In or about June of 2019, Faller began meeting with multiple top government officials who had heard of the horrific travesties of Justice committed against Faller and his family by corrupt officials.

In a Specific meeting United States Congressman Jody Hice and his assistants agreed to use congressional authority to obtain the tax records of Faller that were being concealed, hidden and now altered by the IRS to frame Faller. In or about July of 2020 Congressman Hice's assistant notified Faller that the first of the documents had been located and the IRS would be providing them soon. The IRS produced, under Congressional demand the exact documents (tax returns 2006, 2007, 2008 and 2009) that are the entire basis for the bogus charges in the instant matter. Following the initial discovery of the first tax returns, the social security administration produced additional documents proving the returns were filed. In recent days, the social security department has now produced, again, altered amounts of income reported. ALL OF THIS MATERIAL RECOVERED BY CONGRESS VRITUALLY NULLIFY THE BOGUS CHARGES THAT WERE USED TO FRAME FALLER. Attached in sealed exhibit 5 is a compounded exhibit containing the emails from Congressman Hice's office confirming the recovery of the hidden tax documents and the tax and social security documents themselves. THESE DOCUMENTS MAKE FALLER ACTUALLY INNOCENT.

the instant matter is a travesty of justice, and the instant false conviction is part and parcel to a larger "conspiracy" that is no "theory" to get Faller and silence him.

The instant false conviction is seriously preventing Faller from his professions of past, preventing his ability to get licenses, insurance and other ordinary rights that are being blocked by the hideous, wrongful conviction(s) so easily discerned with the revelations of the hidden evidence and facts.

For all the foregoing reasons, *inter alia*, Faller respectfully asks this Court to grant this petition for a writ of *Coram nobis* and overturn his illegal conviction.

I, James S. Faller, II, do hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on September 16th, 2022.

//S//James S. Faller, II

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jsfaller@jsfii.com

CERTIFICATE OF SERVICE

I do hereby certify that I have filed a true and correct copy of the foregoing in the ECF/PACER System this 19th day of September 2022 and that all parties will be served and noticed electronically.

//S// James S. Faller, II

James S. Faller, II

incredible kids.” That agent’s partner then stated; “*The people who were doing all this to you are now gone and NOBODY is going to do this to you again.*” It is noteworthy that just prior to the 7th Kentucky indictment [3:20-CR-105] the Columbia County (GA) Sheriff contacted me and notified me that they “*had a credible threat on my life.*” To be clear, I have no ties whatsoever to crimes or any sort of dangerous people, other than the government of past. This threat came on the heels of what I discuss *infra* in re a 2000 false conviction in SDFL being attacked now in another writ. The SDFL case is in fact the catalyst for all of the (7) seven indictments that I list, *Infra*.

To frame this in a way an honest United States Attorney pled in a related civil matter; “*If these acts committed against Faller would have taken place in this district (SDGA) we would have to investigate and prosecute.*” [*Faller v. Pelosi, et al., CV-1:20-002*] I am basically a man with no protections of law or the constitution.

CIVIL DISABILITY

Again, based upon the allegations and documentation in the *Petition for a Writ*, I expected a hearing. In all sincerity, keeping me out of the Courtroom has greatly contributed to the confusions in this matter and is yet another step in *due process* depravation. I am an experienced and well-trained litigator, who knows exactly how to proceed in Court. Because I have worked directly with Justice Posner, I am well aware that the Judicial Conference directs judges to keep *pro se* litigators out of the court room because they are a mess. See Posner article in ABA September 11, 2017².

This Court hinged its opinion on a lack of showing of a Civil Disability. First and foremost, a conviction, especially one for tax evasion and further, if you are innocent (because everyone claims they are innocent and the public rebukes someone who claims innocence,) you live with a

² “The basic thing is that most judges regard these people as kind of trash not worth the time of a federal judge,” Posner said.

scar that there is no way to understand having not lived it. Virtually, every aspect in life is horribly affected by a felony. In other words, having a conviction speaks in axiomatic resolve to a horrific Civil Disability. However; Faller has substantial ongoing statutory Civil Disabilities that stem directly from the instant conviction and nowhere else.

- a. Faller is in the process of seeking a license with the Bar to practice law with help and encouragement of several lawyers and judges. The instant conviction (a second false conviction) makes it impossible.³
- b. Faller was licensed as an engineer and is not eligible due to refusal of insurance bonds required in the profession.
- c. Faller was denied life insurance multiple times due to the conviction.
- d. Faller was a licensed Stockbroker and cannot obtain a license due to the conviction.
- e. Faller is a high time pilot who is restricted and cannot qualify for specific licenses which would allow earnings due to the instant conviction.
- f. Faller cannot resume work as an investigator due to the conviction. (Faller previously worked under Kent Wicker and J. Vincent Aprile as an investigator.)
- g. Denial of Second Amendment right. (I was an avid hunter and competitive shooter.)
- h. Denial of Alcohol license. I owned a restaurant and had a liquor license.
- i. Denial of Fourth Amendment this conviction was used to convince a court in the 3:20-CR-105 case to issue an illicit search warrant which destroyed my family's lives. (See also *Faller v. DOJ*, et al, 3:23-CV-526.) We lost everything.
- j. Denial of 5th Amendment right to Due Process.
- k. Denial of 6th Amendment right to have compulsory process for obtaining witnesses in his favor. (Kidnapped witness.)
- l. Denial of 8th Amendment right to be free of cruel and unusual punishment when government continues to attack my family and I, ultimately causing several deaths, including my wife refusing treatment, "*Because the government will never leave us alone.*"
- m. Passport interference.
- n. Foreign travel restrictions to nations I have family and business opportunity.
- o. Loss of private citizenship⁴.

This Court erroneously held that [t]he disabilities are speculative. They are axiomatic.

When I began getting involved in contact with various Congressman for help, some of them

³ Faller is well able to qualify to take the bar in various states (without law school due to experience and working under licensed lawyers) however, due to the conviction Faller cannot meet the suitability requirements.

⁴ The most popular radio host in Augusta broadcast multiple 3 hour radio shows about me where he specifically told the audience, Faller is a Federally convicted criminal and a tax cheat. All the politicians like him, for now. He needs to go do good deeds for 5-10 years and then come out. In the meantime, he needs to keep his head down. In a defamation lawsuit, I lost my rights as a public figure because Georgia Law holds that indicted and convicted felons are public figures and cannot sue for defamation.

refused to have contact or assist due to this conviction. The above list is merely partial and would have been explained in detail at a hearing. Again, when evidence is brought forward and multiple very credible people are swearing to the enormous misconduct of the government, including the kidnapping of a witness that would go directly to guilt or innocence, and hiding tax returns that required a Congressional demand, it is simply unconscionable that a Court would not hold a hearing and in fact be ready to refer the matter the to DOJ/OPR for criminal investigation, just as the USAO in SDGA wrote they would do based on what has been done to my family and I if it were done in their district. Reminding this Court, the Augusta FBI looked into these acts by officials and wrote these words in legal proceedings.

Simply, the travesty and ongoing, never ending and disturbing "*Civil Disabilities*" in this matter are never ending and have been deadly. It is noteworthy that these false charges continue to be used to disturb any efforts Faller makes to cure various injustices, such as alleged debts, etc. Even this Court has now stated that Faller is attempting to not pay taxes the court and jury found he owes in a motion for an injunction. This in and of itself is an ongoing harm of this wrongful conviction.

UNDERLYING CHARGES

In the opening line of the Opinion [DN 455] this Court writes that "[a] federal jury found Jim Faller guilty of multiple tax violations: attempting to interfere with the administration of the tax laws, attempting to evade or defeat a tax, filing false tax documents, and willfully failing to file [] a tax return."

What the Court significantly errs on is that it was in fact the IRS agent who committed these violations of interference, that could not be shown at trial because the government was concealing virtually all of the key evidence that took Congress to recover.

Clearly, the missing tax returns would have been *Brady* material since they completely negate the allegations in the indictment. I repeatedly filed motions to compel, and they were denied. Now we have *prima fascia* proof the evidence sought was in fact in the hands of the government at the time they knowingly filed the false charges.

In *Mathews v. Eldridge* 424 U.S. 319 (1976) quoting *Armstrong v. Mazon*, (1965), holds that “[t]he Right to be heard at a meaningful time and in a meaningful way is a fundamental due process right.” The requirements of *due process* depends on the nature of the interest at stake and the weight of that interest balanced against the opposing government interests.

Here, the Court is holding that none of the facts alleged are in the record. That is because the only way to get them into the record beyond the sworn affirmations and documentary proof attached to the Petition, require a hearing. Anything less is a textbook deprivation of *due process* rights. This Court has discretionary authority to hold the requisite hearing to determine the facts as they have been argued in the Petition and supporting documents and affirmations. Again, see also attached exhibit 1, sworn affirmation of 30 years of Hell endured by the Fallers.

§ 76.18 Authority of the Judge.

(11) Upon motion of a party, take official notice of facts

On February 7th, 2024 Faller filed a motion for a hearing in this matter and is prepared to present the necessary testimony to conclusively prevail on the instant *Petition for a Writ of Coram Nobis*. Although there are a plethora of horrific facts presented to assist this Court in understanding the issues, the undersigned need only present (3) three witnesses to prove what needs to be proven. (The government concealed the materials, and they would have changed the outcome.) Civil Disability can also be proven with one of the same witnesses.

This Court is also noticed that the Amicus Brief was filed in good faith by former Federal Agent and victim herein, Darlene Price. The Amicus was filed to aid and alert this Court to the

This Court Opined that the Court was unclear as to my "*professions of past*" that are in fact Civil Disabilities. The above list is only a partial of those "*professions of past*" and they are an ongoing, tremendous impediment to the undersigned who has lived almost half my life under false charges.

This Court cited *United States v. Castano*, 906 F. 3d 458, 462 (6th Cir. 2018) (quoting *United States v. Denedo*, 556 U.S. 904, 916 (2009)) holding, "*It is generally not appropriate for claims that could have been raised on direct appeal*" *Id.* At 464. The hidden evidence was not available up until long after the appeal, therefore could not have been presented in any fashion until the instant Petition. This Court then included a laundry list of what is necessary to prevail;

(1) An error of fact; that error is a fatal error here. Response: The government made a case by alleging Faller did not file his 2006, 2007, 2008 and 2009 tax returns. Congress obtained them long after trial and the closure of the case and they are now in the record attached to the Petition.

(2) Unknown at the time of trial. Response: It was unknown where the returns were. Copies existed but the IRS gave false testimony and stated they were not filed. (3) of a fundamentally unjust character which probably would have altered the outcome of the challenged proceeding if it had been known, citing *United States v. Johnson*, 237 F. 3d 751, 755 (6th Cir. 1991.) Response: The fact that there was a debate at trial where the copies of the tax returns were shown to IRS Agent Ambach, he flat denied they were filed in any way. As we now know, they were filed and concealed by the government. Had these facts been known, there would have been nothing for the jury to decide as it is *prima facie* that Faller committed NO criminal acts as alleged in the indictment before the jury. The Court held; "*The petitioner also must show that the writ is ""necessary to remedy an ongoing disability.""*" Citing *Castano*, 906 F. 3d at 463. Faller has provided a textbook list of Civil Disabilities, *Supra*. Faller expected this Court to hold a hearing in such a serious matter

and expected to lay out exactly what, when and how he is Civilly handicapped by this false conviction and its progeny.

The Court admits that Faller “arguably” addresses the first (3) three requirements and clung to a misunderstanding of the Civil Disabilities that Faller eluded to and has now detailed herein. The Court, without a hearing has now been shown the Civil Disabilities however, how the evidence relates, a chain of custody, efforts to conceal and how they relate to the false charges and false testimony require a hearing to put it all together and complete the record which demands that the instant conviction is vacated.

The undersigned hereby respectfully requests that this Court vacate its June 11th, 2024 Opinion and Order and to move this matter forward on the merits and vacate the Conviction or hold the requisite hearing to allow a full record to be made.

Respectfully submitted,

//S// James S. Faller, II

James S. Faller, II
P.O. Box 1459
Evans, Georgia 30809
706-564-6265
jfcaller@jsfii.com
CERTIFICATE OF SERVICE

I do hereby certify that I have filed a true and correct copy of the foregoing, including exhibit 1 in the ECF/PACER System this 21st day of June 2024 and that all parties will be served and noticed electronically.

//S// James S. Faller, II

This case presents a structural failure of judicial review.

Petitioner raised detailed and specific allegations of fundamental constitutional violations, including government interference with a material defense witness, suppression of exculpatory evidence, and concealment of records central to the prosecution's theory. Those claims go to the heart of the integrity of the underlying conviction.

Neither the district court nor the panel addressed those claims on the merits.

Instead, both courts terminated review at a threshold requirement—“*ongoing civil disability*”—while simultaneously refusing to permit any evidentiary development that would establish both the constitutional violations and their continuing consequences. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976) (erroneous deprivation.)

The result is a procedural construct under which serious constitutional violations can be insulated from judicial review entirely.

That result conflicts with controlling precedent, including *United States v. Morgan*, 346 U.S. 502, 511–12 (1954) and *United States v. Denedo*, 556 U.S. 904, 911–16 (2009) and presents a question of exceptional importance: whether federal courts may avoid adjudicating fundamental constitutional violations through an unduly narrow and factually undeveloped application of the “*civil disability*” requirement.

Rehearing *en banc* is warranted.

STATEMENT OF ISSUES

1. Whether the panel misapplied the “*ongoing civil disability*” requirement by demanding proof of completed, documented denials rather than present, concrete harm.
2. Whether a court may deny *coram nobis* relief without addressing alleged constitutional violations—including suppression of exculpatory evidence and interference with a material witness—based solely on a threshold element.
3. Whether the denial of any evidentiary hearing, while simultaneously rejecting factual allegations as “*speculative*,” constitutes a denial of due process.

STATEMENT OF THE CASE

Petitioner filed a *writ of coram nobis* alleging that his conviction was obtained through fundamental constitutional violations, including:

- Government interference with a material witness, preventing the presentation of exculpatory testimony;
- Suppression and concealment of exculpatory evidence, including tax records central to the prosecution’s theory;
- Loss or destruction of critical evidence, including recordings that would have directly impeached key government testimony.

See Record, Petition for *Writ of Coram Nobis*.

The district court declined to address those claims, holding instead that Petitioner failed to demonstrate an “*ongoing civil disability*,” and that this failure alone justified denial of relief.

Petitioner then provided detailed allegations of ongoing civil disabilities, including professional disqualification, denial of licensure, loss of constitutional rights, and other continuing harms directly tied to the conviction.

The district court denied reconsideration without a hearing, holding that even accepting Petitioner’s allegations as true, no relief was warranted.

The panel affirmed, likewise declining to address the underlying constitutional claims.

ARGUMENT

I. THE PANEL MISAPPLIED THE “ONGOING CIVIL DISABILITY” REQUIREMENT

The panel treated the civil-disability requirement as requiring documented, completed denials of licenses or rights.

That is not the law.

Coram nobis requires a **present, concrete harm**—not proof that every consequence has already been formally imposed. See *Castano*.

Petitioner alleged:

- Loss of professional opportunities
- Inability to obtain licenses and insurance
- Firearm disability

- Travel restrictions
- Ongoing reputational and legal consequences directly tied to the conviction

These are not speculative harms. They are the ordinary and foreseeable legal consequences of a felony conviction.

By characterizing such harms as “speculative,” the panel effectively rendered the civil-disability requirement impossible to satisfy.

II. THE DECISION IMPROPERLY AVOIDS REVIEW OF CONSTITUTIONAL VIOLATIONS

The district court expressly held that failure to show civil disability:

“*obviates the need*” to address the underlying allegations.

That reasoning creates a dangerous procedural shortcut.

Petitioner alleged:

- Suppression of exculpatory evidence in violation of *Brady v. Maryland*
- Interference with a material witness in violation of the Sixth Amendment and *Washington v. Texas*, 388 U.S. 14, 19 (1967) The right to offer the testimony of witnesses, and to compel their attendance, if necessary, is in plain terms the right to present a defense.”
- Destruction or concealment of critical evidence affecting the fairness of the trial

These are not peripheral issues. They go directly to the validity of the conviction.

A court cannot avoid addressing such claims by invoking a threshold element that itself depends on factual development the court refused to allow.

III. THE DENIAL OF AN EVIDENTIARY HEARING CREATED A CIRCULAR DUE PROCESS VIOLATION

The courts below:

1. Denied any evidentiary hearing;
2. Declared Petitioner's allegations insufficient or speculative;
3. Used that insufficiency to deny relief.

This is circular.

Where a petitioner alleges specific, non-frivolous constitutional violations supported by detailed factual assertions, a court may not refuse all factual development and then rely on the absence of developed evidence.

The district court acknowledged its discretion to hold a hearing but refused to do so even while recognizing that Petitioner alleged "*plausible*" claims.

That refusal deprived Petitioner of any meaningful opportunity to establish:

- The existence of constitutional violations;
- The causal relationship between those violations and ongoing harm.

This constitutes a denial of due process. See also Mathews, *Supra*.

IV. THE DECISION CONFLICTS WITH SUPREME COURT PRECEDENT

The Supreme Court has emphasized that *coram nobis* exists to address:

“errors of the most fundamental character.” — Morgan

And applies in:

“extreme cases” involving fundamental flaws. — *Denedo*

The decision below narrows that remedy to the point of nullity.

If:

- Suppressed exculpatory evidence,
- Interference with a defense witness, and
- Concealment of material records

do not warrant meaningful review under *coram nobis*, then the writ no longer serves its intended function.

V. THIS CASE PRESENTS QUESTIONS OF EXCEPTIONAL IMPORTANCE

This case raises issues that extend far beyond Petitioner:

- Whether courts may dispose of *coram nobis* petitions without addressing constitutional claims;
- Whether the civil-disability requirement can be used to block review of alleged government misconduct;
- Whether pro se litigants alleging serious constitutional violations may be denied any evidentiary hearing.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Criminal Action No. 3:20-CR-105-CHB
	)	
v.	)	
	)	
JAMES S. FALLER, II,	)	ORDER GRANTING MOTION TO
	)	DISMISS INDICTMENT WITH
	)	PREJUDICE
Defendant.	)	

*** **

This matter is before the Court on United States' Motion to Dismiss Indictment [R. 60].

Having reviewed the Motion and the Court being otherwise sufficiently advised,

IT IS HEREBY ORDERED as follows:

1. United States' Motion to Dismiss Indictment [R. 60] is **GRANTED**. Counts 1, 2 and 3 in the Indictment are **DISMISSED with prejudice**.
2. The Jury Trial scheduled for March 28, 2022, is **REMANDED** from the Court's trial docket.
3. All pending Motions in this matter [R. 28, R. 38, R. 41, R. 45, R. 47, R. 48, R. 49, R. 56, R. 57] are **DENIED as moot**.

This is the 13th day of October, 2021.



Claria Horn Boom
CLARIA HORN BOOM,
UNITED STATES DISTRICT COURT JUDGE
EASTERN AND WESTERN DISTRICTS OF
KENTUCKY

cc: Counsel of Record
Defendant, *pro se*
Jury Administrator
United States Marshal

Ex. 2-

Generated: 02/17/2023

Commonwealth of Kentucky

AOC - S - 050 (ODIS)

Court of Justice



Order Dismissing for
Lack of Prosecution

Case: 06-CR-00101

Court: CIRCUIT

County: RUSSELL

The following action, having been called pursuant to notice by the clerk, and the court finding that no pretrial step has been taken within the preceding year, it is ORDERED that the following action be DISMISSED WITHOUT PREJUDICE FOR WANT OF PROSECUTION under CR 77.02(2):

COMMONWEALTH VS. FALLER II, JAMES S

APRILE II, J. VINCENT
500 WEST JEFFERSON STREET
SUITE 2100
LOUISVILLE KY 40202

ATTORNEY-PRIVATE

FALLER II, JAMES S
P.O. BOX 2395
RUSSELL SPRINGS KY 42642

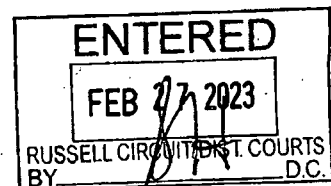
DEFENDANT / RESPONDENT

HUNDLEY, CLAY,
209 NORTH MAIN STREET
THOMPSONVILLE KY 42167

COMMONWEALTH'S ATTORNEY

STANZIANO, MARK
STANZIANO LAW OFFICE
414 PUBLIC SQUARE
COLUMBIA KY 42728

CO-COUNSEL

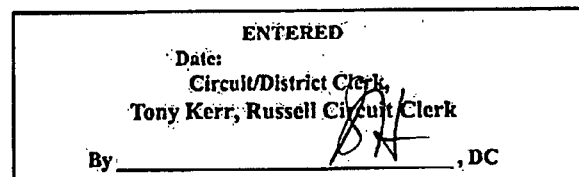


Date: February 24, 2023

A handwritten signature in dark ink, appearing to read "David L. Williams".

HON. DAVID L. WILLIAMS
Judge

I hereby certify that I have served a true copy of this notice on all parties listed herein by mailing a copy to their attorneys of record, postage prepaid.

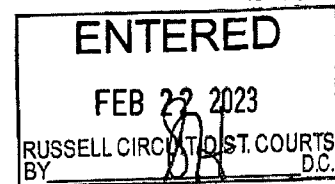


CI 06-CR-00101



Ex. 3

COMMONWEALTH OF KENTUCKY
40TH JUDICIAL CIRCUIT
RUSSELL CIRCUIT COURT
INDICTMENT NO. 06-CR-00102



COMMONWEALTH OF KENTUCKY

PLAINTIFF

VS.

ORDER

JAMES S. FALLER II

DEFENDANT

Comes now the Commonwealth and the parties being in agreement and the Court being otherwise sufficiently advised;

IT IS HEREBY ORDERED that the above-styled case shall be dismissed without prejudice.

This the 21st day of February, 2023.

A handwritten signature in dark ink, appearing to read "David L. Williams".

DAVID L. WILLIAMS, SPECIAL JUDGE
RUSSELL CIRCUIT COURT

DISTRIBUTION

JESSE M. STOCKTON, JR.
COMMONWEALTH'S ATTORNEY (✓)

DEFENSE ATTORNEY (✓)

A handwritten signature in dark ink, appearing to read "Tony Kerr".
CLERK'S INITIALS & DATE

2-22-23

**UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
Receipt for Property**

Case ID: _____

On (date) 03/14/2023

item (s) listed below were:

- ☐ Collected/Seized
☐ Received From
☒ Returned To
☐ Released To

(Name) JAMES FALLER

(Street Address) _____

(City) _____

Description of Item (s): (1) Item #2 / Search Warrant Return #: None / 1B109 / Mastercard credit/debit cards ending in 5729, 5810, 5786, 5752, 6867, 6834, 6800.

(2) Item #9 / Search Warrant Return #: None / 1B102 / Potentially Privileged Documents Removed Pursuant to Taint Review.

(3) Item #26 / Search Warrant Return # 85, 87-89 / 1B85 / Letter from accountant D.H. and tax documents.

(4) Item #27 / Search Warrant Return # 85, 87-89 / 1B84 / One folder labeled "securities" and a compact disc

(5) Item #29 / Search Warrant Return # 86 / 1B82 / Financial and patient documents and receipts

(6) Item #37 / Search Warrant Return # 78, 79 / 1B74 / Documents containing printouts of text messages

(7) Item #39 / Search Warrant Return # 76 / 1B72 / Box of various documents (BB&T bank statements included)

(8) Item #40 / Search Warrant Return # 75 / 1B71 / Folder of investor info and collaborative agreements for A.A.

(9) Item #41 / Search Warrant Return #74 / 1B70 / Seagate 500GB hard drive, s/n Z2AFR2F1 containing image of Apple laptop on desktop

(10) Item #43 / Search Warrant Return #72 / 1B68 / Unfiled and client copies of 2012 & 2013 federal and state tax returns

(11) Item #44 / Search Warrant Return # 70 / 1B67 / Sony Notebook s/n # 283585303101770

(12) Item #45 / Search Warrant Return # 69 / 1B66 / Lacie Hard Drive w/ power cords

(13) item #46 / Search Warrant Return # 68 / 1B68 / One (1) MD 20 GB Enhanced hard drive s/n PCAAT9233609

(14) Item #47 / Search Warrant Return # 67 / 1B64 / One (1) thumb drive labeled J.F. and one (1) thumb drive labeled Hicks & Assoc

CPAs

(15) Item #48 / Search Warrant Return # 66 / 1B63 / One (1) Blackberry 8310 IMEI # 35915802782639 and one (1) Blackberry 8830

ESW: 07614620176

Received By: _____

(Signature)

Received From: _____

(Signature)

Printed Name/Title: James FallerPrinted Name/Title: Matt Faller / SO

**UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
Receipt for Property**

Case ID: _____

On (date) 03/14/2023

item (s) listed below were:

- ☐ Collected/Seized
☐ Received From
☒ Returned To
☐ Released To

(Name) JAMES FALLER

(Street Address) _____

(City) _____

Description of Item (s): (16) Item # 49 / Search Warrant Return # 65 / 1B62 / Acer AX1200-U1711A s/nPTSAR0X0269080891E3003(17) Item # 50 / Search Warrant Return # 64 / 1B61 / HP P2-1317c S/N MXU24409FV(18) Item # 56 / Search Warrant Return # 57 / 1B55 / ASUS Nexus tablet(19) Item # 61 / Search Warrant Return # 49 / 1B50 / Gold external hard drive 101359036(20) Item # 62 / Search Warrant Return # 48 / 1B49 / Seagate FreeAgent Pro External Drive S/N 5QJ049AM(21) Item # 67 / Search Warrant Return # 41 / 1B44 / Misc documents including Dysport packing slip, notebooks, customer complaintnote about investment(22) Item # 68 / Search Warrant Return # 40 / 1B43 / Investor Packet for T.A. and MedShare Laser Safety Operational Guide(23) Item # 71 / Search Warrant Return # 38 / 1B40 / Loan Agreement for T.R.(24) Item # 73 / Search Warrant Return # 36 / 1B38 / One (1) silver/red flashdrive with "Dixon" and yellow lanyard(25) Item # 76 / Search Warrant Return # 30 / 1B35 / 2 M.C. files and papers w/ contact info and USPS and USP file, J.R. filecredit application file(26) Item # 77 / Search Warrant Return # 29 / 1B34 / red/silver thumbdrive "Dixon"(27) Item # 80 / Search Warrant Return # 26 / 1B31 / Nikon Cool Pics S3300(28) Item # 81 / Search Warrant Return # 25 / 1B30 / Sony Cybershot Steadyshot DSC-W800 and charger(29) Item #86 / Search Warrant Return # 20 / 1B25 / Tablet in black case (no make/model/serial number)(30) Item # 100 / Search Warrant Return # 1 / 1B11 / Apple iPhone Model MGAP2LL/A S/N FK1PF0K4GSQM

Received By: _____

(Signature)

Received From: _____

(Signature)

Printed Name/Title: JAMES FALLERPrinted Name/Title: Minh B. Li / SA

**UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
Receipt for Property**

Case ID: _____

On (date) 3-14-23

item (s) listed below were:

- ☐ Collected/Seized
☐ Received From
☒ Returned To
☒ Released To

(Name) JAMES FALLER

(Street Address) _____

(City) _____

Description of Item (s): (31) Item # 109 / 1B2 / Copy of DVD labeled Copy of 2/22/2016 Audio 318B-LS-6745796 CHS Recording(32) Item # 111 / Copy of Marketing Slides(33) Item # 112 / Copy of insurance claim distribution(34) Item # 113 / Copy of Western Union money transfers(35) Item # 114 / Copy of Invoices from Guangzhou Beir Electronic Technology(36) Item # 115 / Copy of Emails from Carter to Faller(37) Item # 116 / Copy of labeled floor plan for MedShare building(38) Item # 117 / Copy of photos of Dysport(39) Item # 118 / Copy of shipping label from EKG box(40) Item # 119 / Copy of 2 MedHoldings investor presentation packets(41) Item # 120 / Copy of MedPharmacy contracts(42) Item # 121 / Copy of letter James Faller sent out to investors and copus of text messages between G.C. & A.S.(43) Item # 136 / Recorder Device that recordings from 1B2 came from

Received By: _____

(Signature)

Printed Name/Title: JAMES FALLER

Received From: _____

(Signature)

Printed Name/Title: Matt Pineda / SJ

Ex. 4



COMMONWEALTH OF KENTUCKY STATE SENATE

August 24, 2022

Justice Brett M. Kavanaugh
Supreme Court of the United States of America
111 St NE, Washington, DC 20002

RE: Request for Assistance in the 6th Circuit Corruption

Dear Justice Kavanaugh,

I am a State Senator in the 7th district of the Commonwealth of Kentucky. Before this elected position, I was appointed the Deputy Chief of Staff for the Lt. Governor of Kentucky, Jenean Hampton. I was notified that you are the Supervising Justice of the 6th Circuit pursuant to pursuant to *Title 28, United States Code, Section 42* as of November 20th, 2020.

For reasons explained below, *this request must be held in confidence until steps are taken to protect the parties and deal with the corrupt actors*. As a result of my work, previously in the Lt. Governor's Office and my current position as a Senator, I am aware of misconduct and associated corruption in the 6th Circuit (in Kentucky). I am asking for your direct supervision of an ongoing case(s) within the Circuit. It my observation and belief that the conduct of multiple officials and courts are central to the corruption in Kentucky and elsewhere.

Previously, James Stuart Faller, II was my constituent and moved from Kentucky for his personal safety, as he has been continually, falsely charged in (7) seven state and federal indictments. The most recent one was dismissed when Mr. Faller (*pro se*) exposed false evidence to the US Attorney, who moved to dismiss the whole case with prejudice. I will allow Mr. Faller's attachments to complete the information. If there is ever a question as to what will happen to an ordinary citizen if they speak out, these matters will demonstrate the answer.

Mr. Faller was falsely charged in the Western District of Kentucky for not filing tax returns [*USA v. Faller*, 1:13-cr-0029]. During Mr. Faller's 2015 trial, a key defense witness was kidnapped by law-enforcement and held until the trial was over. Mr. Faller was convicted in 10 of the 11 counts. Since the trial, with the help of several of us concerned officials, the IRS has produced the evidence that show Mr. Faller is innocent. (This is the case I ask you to derive your supervision and investigation into.) The Court of Appeals refused to allow Mr. Faller to remain *pro se*, appointed a public defender, but later allowed Mr. Faller to file a "*supplemental brief*." During the Course of Mr. Faller's appeal, I was still in the Lt. Governor's office and contacted the Public Defender because of concerns relating to Mr. Faller's constitutional rights to competent counsel. Mr. Faller did in fact file a supplemental brief, but it was ignored by the 6th Circuit. Mr. Faller's defense hinged on issues of government misconduct as well as the

STATE CAPITOL

FRANKFORT 40601

kidnapping of a witness. Other more recent issues arose, many of which I was direct witness to or closely aware:

- Two days before Mr. Faller surrendered to prison (April 13, 2016), the FBI raided the office of Mr. and Mrs. Faller on patently false allegations.
- While Mr. Faller was being held in a prison camp in West Virginia, Mr. Faller's wife was threatened by the FBI in Louisville.
- When Mr. Faller was being held in a prison camp in Gilmer, West Virginia, the staff created an "accident" where he was run over by a large tractor. They denied him medical care for several months that eventually required 2 surgeries.
- On November 3, 2020, the WDKY falsely indicted Mr. Faller on a (7th) seventh indictment resulting from the raid on his and his wife's offices. [USA v. James S. Faller, 11 3:20-cr-00105.] Mr. Faller proceeded *pro se* in the successful defense of the charges. In this matter, witnesses including myself filed sworn affirmations that it would be dangerous for Mr. Faller to return to Kentucky due to the corruption he had been exposing. As stated above, the District Court sealed our affidavits to protect us from the government. This explains why I ask that this request is treated with the same confidentiality. On October 12, 2021, the government moved to dismiss this entire case with prejudice, which the Court granted the very next day.

I need to make it abundantly clear that this is not political in nature, but the allegations are terribly real. I have personally been threatened and harassed due to efforts to help Mr. and Mrs. Faller. I have personally been present when an agent harassed and intimidated Mrs. Faller until I took control of the situation and the agent left in a hurry. As you will see in Mr. Faller's materials, this matter has gone on for a very long time and others have asked for assistance to no avail. It seems that there is always someone with corruption connections that stops these matters from being properly dealt with.

Finally, I need to point out that in Kentucky we have a serious problem with corruption, to the tune of being top in national rankings year after year. To seek assistance here could result in serious harm. From the years that I have served in the various offices of Kentucky government, I have witnessed the lack of accountability and the trickle-down effect from corruption that breeds more corruption. I am asking you to invoke your supervisory authority in the enclosed Writ of Coram Nobis that Mr. Faller is filing simultaneously with this request and to use the wisdom of the Court to investigate and resolve this travesty of justice.

Respectfully,



Adrienne Southworth
Senator, 7th District