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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS
WICHITA DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

vs.

Case No. 12-10174

PHILIP ANDRA GRISBY,
Defendant,

PRO SE MOTION REQUESTING RECOGNITIONS
OF CHANGE OF GENDER AND ORDER
FOR GENITAL REMOVAL

COMES NOW, the Defendant, Philip Andra Grigsby, Pro Se, respectfully requests this Honorable Court to recognize Grigsby's change of gender to gender-nonconforming and to recognize Grigsby's legal name change of Philip Andrea Grigsby, and to refer to Grigsby as Andrea or Grigsby (no pronouns) and to order the Bureau of Prisons to schedule and to have performed a complete genital removal.

In Support thereof Andrea Grisgby States:

- 1.) Andrea Grigsby has lives as a gender nonconforming inmate at USP-Tucson for six years. (See Attachment)
- 2.) Andrea Grisby is recognised as transgender by the Federal Bureau of Prisons. (See Attachment 2)
- 3.) Andrea Grisgby legally changed the birth middle name of Andra to Andrea through the Arizona Superior Court, Pima County on November 26, 2024. (See Attachment 3)
- 4.) Gender nonconforming persons do not identify as male or female, thus the surgical removal of the genitals to include penis, scrotum and testicles would be in compliance with Andrea Grigsby's gender identity.

WHEREFORE, Andrea Grigsby respectfully requests this Honorable

Court to recognize Andrea Grigsby as a gender nonconforming person, refrain from using pronouns and to order the Bureau of Prisons to approve and have performed a full and complete genital removal through surgery.

On this date: January 23, 2025

Respectfully Submitted,

Philip Andrea Grigsby
Reg. # 22325-031
USP-Tucson
P.O. Box 24550
Tucson, AZ 85734

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 12-10174-JWB

PHILIP ANDRA GRIGSBY,

Defendant.

ORDER

This matter is before the court on Defendant's motion requesting the court to recognize his change of gender and to order the removal of his genitals. (Doc. 368.) The motion is briefed and ripe for decision.¹ (Docs. 368, 369.) The motion is DENIED for the reasons stated herein.

Defendant pleaded guilty to committing heinous sexual acts and was sentenced for his crimes in 2013. (Doc. 98 at 1.) He has filed many claims and appeals since being sentenced. (Doc. 369 at 2) (citing Defendant's many claims). He has also filed many lawsuits against the witnesses, prosecutor, and judge involved in his criminal case. (*See id.* at 3) (citing the lawsuits Defendant has filed). He now requests that this court recognize his name change and order the Bureau of Prisons to perform a sex change surgery. (Doc. 368.) Defendant provides no legal authority to support his substantive requests, nor does he provide the governing legal rule or statute (e.g., a motion to amend a clerical error pursuant to Fed. R. Crim. P. 35 and 36, etc.).

Although a court must liberally construe a pro se plaintiff's briefing, it may not become the party's advocate. *See Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). The government argues that the court should dismiss Defendant's claims for lack of subject matter jurisdiction.

¹ Defendant failed to file a reply brief, and the time to do so has now passed.

(Doc. 368 at 4, 6–7.) Because federal courts are courts of limited jurisdiction, there is a presumption against jurisdiction. *See Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). The party asserting to the contrary carries the burden of defeating that presumption and establishing jurisdiction. *See id.* Defendant has made no attempt to demonstrate that this court has jurisdiction to consider his requests, and it cannot be his advocate.²

THEREFORE, Defendant's motion (Doc. 368) is DENIED for lack of subject matter jurisdiction.

IT IS SO ORDERED. Dated this 3rd day of March, 2025.

s/ John W. Broomes

JOHN W. BROOMES
UNITED STATES DISTRICT JUDGE

² Upon reading the government's subject matter jurisdiction argument, Defendant could have filed a reply that attempted to establish subject matter jurisdiction over his claims. He made no such effort.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,
Plaintiff,

v.

Case No. 12-10174-JWB

PHILIP ANDREA GRIGSBY,
Defendant

NOTICE OF APPEAL

COMES NOW, the Defendant Philip Andrea Grigsby, Pro se, respectfully
requests an appeal of the March 3, 2025 denial of docket entry 368.

On this date: March 11, 2025

Respectfully Submitted,

Philip Andrea Grigsby
Reg. #22325-031
USP-Tucson
P.O. Box 24550
Tucson, AZ 85734

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UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

Entry of Appearance - Pro Se

PHILIP ANDREA GRIGSBY
Appellant,
v.
UNITED STATES OF AMERICA
Appellee

Case No. 25-3045

I hereby notify the clerk that I am appearing pro se as the

Appellant, Petitioner

(Appellant, Petitioner, Appellee or Respondent)

in this case. All notices regarding the case should be sent to me at the address below. If my mailing address changes, I will promptly notify the clerk in writing of my new address.

☐ Further, in accordance with 10th Cir. R. 46.1, I certify: **(Check one.)**
All parties to this litigation, including parties who are now or have been interested in this litigation, are revealed by the caption on appeal, or

☒ There are parties interested in this litigation that do not appear in the caption for this appeal, and they are listed on the back of this form.


Signature

Philip Andrea Grigsby

Name Reg. #22325-031

USP-Tucson, P.O. Box 24550

Mailing Address

<u>Tucson,</u>	<u>AZ</u>	<u>85734</u>
City	State	Zip Code

CERTIFICATE OF SERVICE

I hereby certify that:

- ☐ All other parties to this litigation are either: (1) represented by attorneys; or (2) have consented to electronic service in this case; or
- ☒ On April 10, 2025 I sent a copy of the Pro Se Entry
[date]

of Appearance Form to: U.S. Asst. Attorney Jason W. Hart

at 301 N. Main St., Suite # 1200

Wichita, Kansas 67202-4812, the last known

address/email address, by U.S. Postal Service.
[state method of service]

April 10, 2025
Date



Signature

CERTIFICATE OF INTERESTED PARTIES

(attach additional pages if necessary)

Ms. Reagan Lee Grigsby.

Certificate of Service could not be sent to Ms. Reagan Lee Grigsby due to a court ordered no-contact order.

THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff

Case No. 12-10174-JWE

v.

PHILIP ANDREA GRIGSBY,

Defendant,

PRO SE REQUEST FOR ENTRY OF APPEARANCE
AND CERTIFICATE OF INTERESTED PARTIES
BE SEALED

COMES NOW, the Appellant, Philip Andrea Grigsby,

Pro se. Respectfully requesting this Honorable Court

seal the "Entry of Appearance and Certificate of

Interested Parties" due to the (Former Minor) victims

Full name listed as an interested party. The victim

in the above captioned case is now an adult

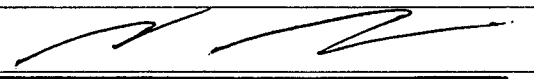
(23 years old) and should have a voice in any

decision regarding further sentence/punishment
of her abuser.

The victim in the above captioned case is
Grigsby's biological daughter, as such Reagan Lee
Grigsby has an extraordinary connection with her
abuser.

On This Date: April 10, 2025

Respectfully Submitted,



Philip Andrea Grigsby

Reg. #22325-031

USP-Tucson

P.O. Box 24550

Tucson, AZ 85734

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

FILED
United States Court of Appeals
Tenth Circuit

April 15, 2025

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

PHILIP ANDRA GRIGSBY,

Defendant - Appellant.

No. 25-3045
(D.C. No. 6:12-CR-10174-JWB-1)
(D. Kan.)

ORDER

This matter is before the court on appellant's *Request for Entry of Appearance and Certificate of Interested Parties Be Sealed*.

Upon consideration, the court construes the *Request* as a motion to seal appellant's entry of appearance, appellant's certificate of interested parties, and the *Request* itself. The court takes the as-construed motion under advisement and refers it to the panel of judges that later will be assigned to consider this appeal on its merits.

For now, the court will file the *Request*, appellant's entry of appearance, and appellant's certificate of interested parties provisionally under seal, pending a final determination by the court as to whether those materials should be sealed.

Entered for the Court



CHRISTOPHER M. WOLPERT, Clerk

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS
WICHITA DIVISION

PHILIP ANDREA GRIGSBY
Petitioner,

v.

Case No. _____

UNITED STATES OF AMERICA,
Respondent.

PRO SE MOTION REQUESTING
APPOINTMENT OF COUNSEL

COMES NOW, the Petitioner, Philip Andrea Grigsby, pro se, respectfully requests this Honorable Court to appoint counsel to assist in the current issues before the court.

In support thereof Grigsby states:

Grigsby is capable of some research and understands the rules of procedure, the complex issues presented in the instant appeal are beyond his skill set and available research access. Due Process is a Constitutional issue difficult for a jailhouse lawyer to argue.

Kilgo v. Ricks, 938F.2d 189, 193 (11th Cir. 1993) (holding that appointment of counsel in a civil case is a "privilege justified only by the exceptional circumstances, such as the presence of facts and legal issues which are so novel or complex as to require the assistance of a trained practitioner." Lavado v. Keohane, 992 F.2d 601, 606 (6th Cir. 1993), Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009), Burns v. County of King, 883 F.2d 819, 824 (9th Cir. 1989).

Exceptional circumstances includes a parties inability to adequately investigate or "present the essential merits of the case", Smith v. Florida Department of Corrections, 713 F.3d 1059, 1065 & N.11 (11th Cir. 2013), Ulmer v. Chancellor, 691 F.2d 209, 213 (5th Cir. 1982),

A finding of exceptional circumstances ... requires at least an evaluation of the likelihood of the plaintiff's ability to articulate his claim in light of the complexity of the legal issues involved. Agyeman v. Corr. Corp. of Am., 390 F.3d 1101, 1103 (9th Cir. 2004).

An order denying appointment of counsel is "inherently tentative". The rules governing habeas proceedings mandate the appointment of counsel if necessary for the effective utilization of discovery procedures (Rule 6(a)), 28 U.S.C. foll. §2254); or if an evidentiary hearing is required (Rule 8(c)), but "these rules do not limit the appointment of counsel under 18 U.S.C. § 3006A at any state of the case if the interest of justice so requires." (Rule 8(c)) Since the district court or magistrate may appoint counsel at any state of the case if the interests of justice require, an order denying appointment of counsel is "inherently tentative."

An order is appealable if it "involves considerations that are 'enmeshed in the factual and legal issues comprising the plaintiff's cause of action.'" Coopers & Lybrand, 437 U.S. at 469 quoting Mercantile National Bank v. Langdeau, 371 U.S. 555, 558, 9 L.Ed.2d 523, 83 S.Ct. 520 (1963). In deciding whether to appoint counsel the district court must evaluate the likelihood of success on the merits as well as the ability of the petitioner to articulate his claims pro se in light of the complexity of the legal issues involved. See, Maclin v. Freake, 650 F.2d 885, 887-88 (7th Cir. 1981); Dillion v. United States, 307 F.2d 445, 447 (9th Cir. 1962). These considerations are not separate and distinct from the underlying claim, but are inextricably enmeshed with them. In deciding whether to appoint counsel, the court need normally look only to the finding of "reasonable cause" is usually sufficient to establish the merits of plaintiff's claim for the purpose of appointing counsel and the court need make no further inquiry with respect to that subject.

The right for a party to have a court-appointed attorney emanates from three different sources. First, the Fifth Amendment's Due Process Clause may provide the right when "fundamental fairness" requires it. United States v. Webb, 565 F.3d 794 (11th Cir. 2009) (quoting Gagnon v Scarpelli, 411 U.S. 778, 790, 93 S.Ct. 1756, 36 L.Ed.2d 656 (1973)). Second, the Sixth Amendment provides the right at "critical stages of a criminal prosecution", including during a first appeal (quoting William v. Turpin, 87 F.3d 1204, 1209 (11th Cir. 1996)). Third, a defendant has statutory right to counsel under 18 U.S.C. § 3006A when: (1) the defendant is entitled to appointment of counsel under the Sixth Amendment to the Constitution; (2) the defendant "is under arrest, and such representation is required by law"; and (3) the district court determines that "the interest of justice so require" when a defendant seeks relief under 18 U.S.C. § 3582, 28 U.S.C. §§ 2241, 2254, 2255, or Federal Rules of Civil Procedure 60 proceedings, in turn, require counsel to be appointed for parties if necessary for effective discovery or if an evidentiary hearing is warranted. Rules governing section 2254 cases and section 2255 proceedings, Rules 6(a), 8(c). When a party does not have a constitutional, statutory, or ruled-based right to counsel, the district court may exercise its discretion as to whether to appoint counsel. See Webb, 565 F.3d at 765; see also 28 U.S.C. § 2255(g) (allowing a court to appoint counsel for proceedings brought under that section).

Grigsby's unique issues must be argued by counsel. The decision to appoint counsel "must be made on a case-by-case basis". Tabron v. Grace, 6 F.3d 147, 157-58 (3rd Cir. 1993).

WHEREFORE, Grigsby respectfully requests this Honorable Court appoint counsel to assist in his current issues before the court.

On this date: _____

Respectfully Submitted,

Philip Andrea Grigsby
Reg. #22325-031
USP-Tucson
P.O. Box 24550
Tucson, AZ 85734

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

PHILIP ANDREA GRIGSBY,

Petitioner,

Case No.: 12-10174-JWB

v.

UNITED STATES OF AMERICA

Respondent.

PRO SE MOTION REQUESTING

APPOINTMENT OF COUNSEL

COMES NOW, the Petitioner, Philip Andrea Grigsby, pro se,
respectfully requests this Honorable Court to appoint
counsel to assist in the appeal of Docket Entry

368.

In support thereof Grigsby states:

Grigsby is capable of some research and understands
the rules of procedure, the complex issues presented

in the instant appeal are beyond his skill set and available research access. Due Process is a Constitutional issue difficult for a jailhouse lawyer to argue.

Kilgo v. Ricks, 938 F.2d 189, 193 (11th Cir. 1993)

holding that appointment of counsel in a civil case is a "privilege justified by only exceptional circumstances, such as the presence of facts and legal issues which are so novel or complex as to require the assistance of a trained practitioner." Lavado v. Keohane, 992 F.2d 601, 606 (6th Cir. 1993), Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009), Burns v. County of King, 883 F.2d 819, 824 (9th Cir. 1989).

Exceptional circumstances includes a party's

inability to adequately investigate or "present the essential merits of the case", Smith v. Florida

Department of Corrections, 713 F.3d 1059, 1065 &

N.11 (11th Circuit 2013), Ulmer v. Chancellor, 691 F.2d

209, 213 (5th Cir. 1982), Cook v. Bounds, 518 F.2d 779,

780 (4th Cir. 1975), Williams v. Meese, 926 F.2d 994,

996 (10th Cir. 1991), Pruitt v. Mote, 503 F.3d 647

654-55 (7th Cir. 2007).

A finding of exceptional circumstances ... requires at least an evaluation of the likelihood of the plaintiff's ability to articulate his claim in light of the complexity of the legal issues involved.

Agyeman v. Corr. Corp. of Am., 390 F.3d 1101, 1103 (9th Cir. 2004).

An interlocutory order denying appointment of counsel is "inherently tentative". The rules governing habeas proceedings mandate the appointment of counsel if necessary for the effective utilization of discovery procedures (Rule 6(a)) or if an evidentiary hearing is required (Rule 8(c)), but "these rules do not limit the appointment of counsel under 18 U.S.C. § 3006A at any state of the case if the interest of justice so requires." Rule 8(c). Since the district court or magistrate may appoint counsel at any state of the case if the interests of justice require, an order denying appointment of counsel in a habeas proceeding, like a class certification

order, is "inherently tentative".

An interlocutory is not appealable if it "involves considerations that are 'enmeshed in the factual and legal issues comprising the plaintiff's cause of action.'" Coopers & Lybrand, 437 U.S. at 469

quoting Mercantile National Bank v. Langbeau, 371 U.S.

555, 558, 9 L. Ed. 2d 523, 83 S. Ct. 520 (1963). In

deciding whether to appoint counsel in a habeas

proceeding, the district court must evaluate the

likelihood of success on the merits as well as the

ability of the petitioner to articulate his claims

pro se in light of the complexity of the legal

issues involved.

See, Maclin v. Freake, 650 F.2d 885, 887-88 (7th Cir. 1981).

Dillon v. United States, 307 F.2d 445, 447 (9th Cir. 1962).

These considerations are not separate and distinct from the underlying claim, but are inextricably enmeshed with them. In deciding whether to appoint counsel, the court need normally look only to the finding of "reasonable cause" is usually sufficient to establish the merits of plaintiff's claim for the purpose of appointing counsel and the court need make no further inquiry with respect to that subject.

The right for a party to have a court appointed attorney emanates from three different sources. First, the Fifth Amendment's Due Process Clause may

provide the right when "Fundamental Fairness" requires it.

United States v. Webb, 565 F.3d 794 (11th Cir. 2009)

(quoting Gagnon v. Scarpelli, 411 U.S. 778, 790, 93

S.Ct. 1756, 36 L.Ed.2d 656 (1973)). Second, the

Sixth Amendment provides the right at "critical stages of a criminal prosecution", including during

a first appeal (quoting William v. Turpin, 87 F.3d 1204, 1209 (11th Cir. 1996)). Third, a defendant has

a statutory right to counsel under 18 U.S.C.

§ 3006A when: (1) the defendant is entitled to

appointment of counsel under the Sixth Amendment

to the Constitution; (2) the defendant "is under

arrest, and such representation is required by

law"; and (3) the district court determines that "the interest of justice so require" when a defendant seeks relief under 28 U.S.C. §§ 2241, 2254, 2255, or Rule 60 proceedings, in turn, require counsel to be appointed for parties if necessary for effective discovery or if an evidentiary hearing is warranted. Rules governing section 2254 cases and section 2255 proceedings, Rules 6(a), 8(c). When a party does not have a constitutional, statutory, or rule-based right to counsel, the district court may exercise its discretion as to whether to appoint counsel. See Webb, 565 F.3d at 795; see also 28 U.S.C. § 2255(g) (allowing

a court to appoint counsel for proceedings brought under that section).

Grigsby's unique issues must be argued by counsel. The decision to appoint counsel "must be made on case-by-case basis". Tabron v. Grace, 6 F.3d 147, 157-58 (3rd Cir. 1993).

WHEREFORE, Grigsby respectfully requests this Honorable Court appoint counsel to assist in his appeal of the denial of Docket Entry 368.

On This Date: April 10, 2025

Respectfully Submitted,


Philip Andrea Grigsby

Reg. #22325-031

U.S.P. - Tucson

P.O. Box 24550

Tucson, AZ 85734

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

FILED
United States Court of Appeals
Tenth Circuit

April 15, 2025

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

PHILIP ANDRA GRIGSBY,

Defendant - Appellant.

No. 25-3045
(D.C. No. 6:12-CR-10174-JWB-1)
(D. Kan.)

ORDER

Before **HOLMES**, Chief Judge.

Appellant, who is proceeding without the assistance of counsel in this appeal, has filed a motion asking this court to appoint an attorney for representation at public expense. The motion is denied. The court will not consider the possibility of appointing counsel for Appellant until the case has been fully briefed and the court has had an opportunity to consider Appellant's own statement of arguments on appeal.

Entered for the Court



CHRISTOPHER M. WOLPERT, Clerk

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UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

Philip Andrea Grigsby

Plaintiff/Petitioner - Appellant,

Case No. 25-3045

v.

United States of America

Appellant/Petitioner's Opening
Brief

Defendant/Respondent -
Appellee.

NOTICE AND INSTRUCTIONS

If you proceed on appeal pro se, the court will accept a properly completed Form A-12 in lieu of a formal brief. This form is intended to guide you in presenting your appellate issues and arguments to the court. If you need more space, additional pages may be attached. A short statement of each issue presented for review should precede your argument. Citations to legal authority may also be included. This brief should fully set forth all of the arguments that you wish the court to consider in connection with this case.

New issues raised for the first time on appeal generally will not be considered. An appeal is not a retrial but rather a review of the proceedings in the district court. A copy of the completed form must be served on all opposing counsel and on all unrepresented parties and a proper certificate of service furnished to this court. A form certificate is attached.

APPELLANT/PETITIONER'S OPENING BRIEF

1. **Statement of the Case.** (This should be a brief summary of the proceedings in the district court.)

On or about January 23, 2025 Grigsby filed in the United States District Court for the District of Kansas a motion (Dkt. 368) requesting the court to recognize Grigsby's gender identity as gender nonconforming asexual
(cont. pg 2a)

2. **Statement of Facts Relevant to the Issues Presented for Review.**

On January 14, 2019 Grigsby was added to the official Bureau of Prisons Transgender list by Dr. Licata of the United States Penitentiary - Tucson Psychology Department. The Federal Bureau of Prisons ONLY recognizes male to female transgender inmates. Thus Grigsby's true identity of gender nonconforming asexual had to be changed to transgender female in order to receive treatment and program participation through the Psychology Department at USP-Tucson for Grigsby's Gender Dysphoria, Grigsby has also participated in Gender Dysphoria treatment through First Step Act programs and outside Christian organizations. In the five years of Grigsby
(cont. pg 2a)

APPELLANT/PETITIONER'S OPENING BRIEF (Cont)

1. Statement of Case.

and legal name change through the Arizona Superior Court, Pima County, case NO. C20246357 from Philip Andra Grigsby to Philip Andrea Grigsby, (no pronouns) the motion also requested the court to order the Bureau of Prisons to order gender confirming surgery for Grigsby by removing Grigsby's male genitalia thus changing Grigsby from a male to a human of neutral gender, in essence a eunuch.

2. Statement of Facts Relevant to the Issues Presented for Review;

identifying as transgender Grigsby has underwent treatment and/or participation in a multitude of programs to understand, control and correct deviant behaviors, See United States v. Grigsby case NO. 6:12-cr-10174-JWB-1; Docket Entries 349 and 367.

3. Statement of Issues.

- a. First Issue: Notice to court of change of circumstances, Name change and Gender Identity change.

Argument and Authorities: Grigsby's request for Recognition of name change is simply official notice to the Court that Grigsby has changed Grigsby's birth middle name of "Andra" to "Andrea", Grigsby further requests the court to not use pronouns when referring to Grigsby in filed documents with the (Cont. Page 3)

- b. Second Issue: Grigsby respectfully requests the sentencing court to order the Federal Bureau of Prisons to order gender affirming surgery.

Argument and Authorities: As per 18 U.S.C. § 3231. District Courts: The district courts of the United States shall have original jurisdiction... for all offenses against the laws of the United States. 18 U.S.C. § 3231 is "the beginning and the end of the jurisdiction inquiry" in cases involving violations of federal criminal law. United States v. Tony, 637 F.3d 1153, 1158 (10th Cir. 2011). Likewise this Honorable Court has jurisdiction per 28 U.S.C. § 1291 further jurisdiction of the district court (Cont. Page 3a)

3a. Arguments and Authorities Cont.

courts (Generally the courts already do this, also the courts rarely use Grigsby's middle name). Grigsby is also giving notice to the court that Grigsby's gender identity has changed to gender nonconforming asexual, both of which constitutes a change of circumstances.

Contrary to Jason W. Harts transphobic opinion, Grigsby is being merely courteous to the court by giving notice to the court of changes in Grigsby's circumstances. Grigsby is not delusional and concurs that it would be a nightmare task for the court to go back and change Grigsby's name and gender on past documents, and Grigsby has not asked the court to do such, Grigsby again is simply giving the court notice. Grigsby is respectfully requesting this Honorable Court accept Grigsby's facts as true and view those facts in the light most favorable to Grigsby. *Tiegan v. Renfrow*, 511 F.3d 1072, 1078 (10th Cir. 2007).

3b. Arguments and Authorities Cont.

can be found is 18 U.S.C. § 3582(c)(1)(A)(i) "extraordinary and compelling" and Rule 60 of the federal rules of civil procedure is yet another avenue to modify a sentence or resentence Grigsby F.R.C.I.V.P. 60(b)(6).

During the twelve years Grigsby has been incarcerated

at USP-Tucson, Grigsby has voluntarily enrolled and completed a multitude of classes and programs (see attached) to recognize, understand, and correct the deviant behaviors that led Grigsby to destroy a family, that led Grigsby to fail as a father, that led Grigsby to traumatize two children for the rest of their lives. Yes, Grigsby has empathy for the daughter whose favorite t-shirt read "if you make me cry, my daddy will make you cry", that empathy causes Grigsby physical pain, Grigsby knows exactly how the victim Grigsby abused physically, mentally, and sexually feels, because long ago Grigsby was that child who was abused physically, mentally, and sexually by the father whose job was to love and protect Grigsby. The hate Grigsby feels for himself is unmeasurable, Grigsby vowed to never be the kind of bastard Grigsby's father had been.

Grigsby requests for a complete genital removal is a three part plea to the court.

First: It is apparent by objectively viewing Grigsby's early criminal history, that Grigsby had struggled with violence and substance use as a young man that led to a state prison sentence. There are twenty-two years between Grigsby's two prison sentences, in those twenty-two years Grigsby matured, an indication that

Grigsby is capable of change, though Grigsby concurs that there were a couple run ins with the law, they were in stark contrast to Grigsby's earlier years.

Grigsby has completed several Bible Studies, through these studies Grigsby has learned that to be free of sin, one has to remove the source of sin, in Matthew 4:29, Jesus said "if thy eye offend thee, pluck it out, and cast it from thee, if thy right hand offend thee, cut it off, it is profitable for thee that one of thy members should perish, and not that thy whole body should be cast into hell" (see attached). Thus for Grigsby to repent, the removal of Grigsby's male genitals is imperative. The male genitalia produces testosterone which in turn produces sexual desire and aggression, thus with Grigsby's genitals removed Grigsby will be free of any sexual desire or aggressive emotions, Grigsby will become a eunuch, (see attached). Galatians 3:28; There is neither Jew nor Greek, there is neither bond nor free, there is neither male nor female: for ye are all one in Christ Jesus. According to the King James version of the Holy Bible Eunuchs are the third gender. (see attached)

Second: No words will ever make up for the trauma Grigsby caused the daughter that meant so much to Grigsby, nor will any incarceration ever ease the emotional pain Grigsby inflicted on an innocent who

relied on Grigsby's protection. There has never been a victim impact statement filed in Grigsby's case, thus Grigsby does not know the depth of the emotional pain Grigsby caused to not only Grigsby's daughter, but the stress and shame Grigsby brought onto the Grigsby family and friends. Thus Grigsby offers the sacrifice of Grigsby's male genitalia to atone for the sins, physical abuse, and sexual abuse Grigsby has ever caused anyone Grigsby has wronged. Grigsby's daughter, now an adult, can finally have a voice in what happens to the person who took her innocence.

Third: It should be painfully obvious to the United States Attorney's Office and the United States District and Appellate Courts that long sentences are not deterring the sexual abuse of children by adult males, even incarceration does not stop sexual deviancy. In the twelve years Grigsby has been housed at USP-Tucson Grigsby has seen a plethora of sexual deviancy inside these prison walls, many sex offenders are homosexual and find a partner or group willing to roleplay and act out as adults molesting children, some sex offenders masturbate when they see a child on T.V., often right in front of other sex offenders, there are some sex offenders grooming children through coded messages in the mail, email, and telephone, some sex offenders draw children being molested or write stories about

the sexual abuse of children, Grigsby fell into the story writing trap when Grigsby first arrived here, but through treatment rose above that deviancy.

Grigsby's objective is to push the genital removal for sex offenders question to the United States Supreme Court, Grigsby's mission is to propose a punishment that will stop the victimization of children. Grigsby knows that if genital removal for sex offenders was posted to the public, the public would wholeheartedly back Grigsby's proposal. Grigsby respectfully requests to be the first sex offender to undergo a complete genital removal as a punishment for sexually abusing a child.

4. Do you think the district court applied the wrong law? If so, what law do you want applied? Yes, Grigsby concurs that federal courts

have limited jurisdictions, yet federal courts from several circuits seem to have (Cont. Page 4a)

5. Did the district court incorrectly decide the facts? If so, what facts?

Yes, the court did not rely on any facts, as throughout Grigsby's case, the court has ignored any facts (Cont. Page 4c)

6. Did the district court fail to consider important grounds for relief? If so, what grounds? Yes, Ground 1: The Transgender community has

a Constitutional right of self expression. Ground 2: Grigsby is in danger of serious mental issues (cont. Page 4d)

7. Do you feel that there are any other reasons why the district court's judgment was wrong? If so, what? Yes, Though Grigsby concurs with the

court and Jason W. Hart that Grigsby's crimes were immoral and severe, the court ignores the fact (cont. Page 4d)

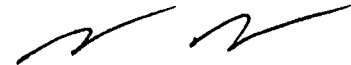
8. What action do you want this court to take in your case? Grigsby

respectfully requests this Honorable Court to remand to the United States District Court for the District (cont. Page 4d)

9. Do you think the court should hear oral argument in this case? If so, why?

Due to Grigsby Filing pro se and being incarcerated, oral argument would not be feasible at this time.

April 30, 2025
Date


Signature

4. Do you think the district court applied the wrong law?
If so, what law do you want applied? (Cont. Page 4)

jurisdiction over the President of the United States?
Federal court jurisdictional power is authorized by the Constitution and Statutes. 18 U.S.C. § 3582(c)(1)(A). Congress chose to create a vague exception to the rule that a federal court may not modify a sentence after imposing it: unless an "extraordinary and compelling reasons" warrants a modified sentence. In the case of vague and ambiguous laws, the Supreme Court's recent decision in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 144 S.Ct. 2244, 219 L.Ed. 2d 832 (2024) overruling the *Chevron* Deference makes Grigsby's instant motion ripe for discussion. 18 U.S.C. § 3553(a)(2)(A) to reflect the seriousness of the offense... to provide just punishment for the offense, (B) to afford adequate deterrence to criminal conduct, (C) to protect the public..., all would be addressed if Grigsby's request was used as a punishment for sex offenders. Federal Rule of Civil Procedure 60(b)(6) may also be a vehicle "any other reason that justifies relief." The Black's Law Dictionary defines relief (extraordinary relief) "Judicial relief that exceeds what is typically or customarily granted but is warranted by the unique or extreme circumstances of a situation", Grigsby's request is definitely "unique" and "extreme". Relief under Rule 60(b) is

page 4a

Cont. page 4a

extraordinary and may only be granted in exceptional circumstances. *Ackerman v. United States*, 340 U.S. 193, 199, 95 L. Ed. 207, 71 S. Ct 209 (1950); *Collins v. Wichita*, 254 F.2d 837 (10th Cir. 1958) "... is appropriate to accomplish justice" victims of child sexual abuse and parents of said victims would rally behind "Genital Removal For Sex - Offenders". *Klapprott v. United States*, 355 U.S. 601, 69 S. Ct. 384, 93 L. Ed. 266 (1949).

5. Did the district court incorrectly decide the facts? If so, what facts?

presented and has blindly followed the opinion of the United States Attorney's Office, to be factual the court has followed the ad hominem rants of Jason W. Hart verbatim. The only facts relied on by Jason W. Hart and the court is that Grigsby has exercised the Constitutional Right of Due Process guaranteed to every Citizen of the United States of America to be free to petition the court. Fact 1: The main Christian text the "Holy Bible" and the most popular translation "The King James" version clearly indicates Jesus Christ recognizes Eunuchs as the "Third Gender". Fact 2: The LGBTQ-plus community encompasses over ninety different gender identities. Fact 3: Grigsby has lived as a gender nonconforming asexual for seven years. Fact 4: Grigsby requires a complete genital removal to achieve the gender identity of Eunuch. Fact 5: There needs to be a punishment for sex offenders who abuse children, that will detour future sexual abuse of children.

6. Did the district court fail to consider important grounds for relief? If so, what grounds? (cont. page 4) if Grigsby is denied gender confirming surgery.

Ground 3: The treatments and programs Grigsby voluntarily enrolled in and completed clearly indicate Grigsby's desire to be rehabilitated. Ground 4: Grigsby's empathy for the victim of Grigsby's deviate behavior.

7. Do you feel that there are any other reasons why the district court's judgement was wrong? If so, what? (cont. page 4)

that the United States Congress has passed several new laws aimed at the rehabilitation of inmates like Grigsby, by ignoring Congresses intent the court and Jason W. Hart are clearly violating Grigsby's Due Process rights

8. What action do you want this court to take in your case? (Cont. Page 4)

of Kansas, Wichita Division Grigsby's petition to recognize the changes in circumstances, with an order to the Federal Bureau of Prisons to order gender affirming surgery and treatment of Grigsby's Gender Dysphoria, furthermore Grigsby requests this Honorable Court review de novo United States v. Grigsby case NOS. 6:12-cr-10174-JWB-1 and 6:15-cv-01154-JTM in light
page 4d

Cont page 4d

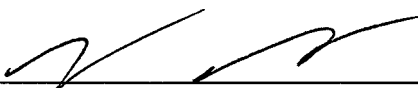
of the recent United States Supreme Courts decision overruling the Chevron Deference. The United States Attorney's Office is an agency of the United States Justice Department just as the Federal Bureau of Prisons in *Nicolleti v. United States*, Lexis-661, 4th Cir. 11/14/24, remanded in light of Chevron, the Board of Immigration Appeals is also an agency of the United States Department of Justice as seen in *Mouns v. Garland*, 113 F. 4th 399 (4th Cir. 2024) remanded in light of Chevron. See also *Rangel-Fuentes v. Garland*, 99 F. 4th 1191 (10th Cir. 2024) and *Doe v. United States*, 129 F. 4th 1362 (Fed. Cir. 2025) both remanded in light of Chevron.

Due to the complexities of Grigsby's petition, Grigsby respectfully request this Honorable Court appoint counsel.

CERTIFICATE OF SERVICE

I hereby certify that on April 30, 2025 I sent a copy of
(date)
the Appellant/Petitioner's Opening Brief to James A. Brown
, at U.S. Attorney's Office, 444 SE
(Opposing Party or Attorney)
Quincy Ave Suite 290, Topeka, Kansas 66683, the last known address/email
address, by United States Postal Serv.
(state method of service)

April 30, 2025
Date


Signature

CERTIFICATE OF COMPLIANCE

I certify that the total number of pages I am submitting as my Appellant/Petitioner's Opening Brief is 30 pages or less or alternatively, if the total number of pages exceeds 30, I certify that I have counted the number of words and the total is 3,348, which is less than 13,000. I understand that if my Appellant/Petitioner's Opening Brief exceeds 13,000 words, my brief may be stricken and the appeal dismissed.

April 30, 2025
Date


Signature

APPENDIX E

APPENDIX E

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No. 25-3045

Appellate Case 25-3045 UNITED STATES DISTRICT COURT 2025 APPEALS

FOR THE TENTH CIRCUIT

UNITED STATES OF AMERICA

Plaintiff-Appellee,

v.

PHILIP ANDREA GRIGSBY

Defendant-Appellant.

ON Appeal from the United States District Court
for the District of Kansas

The Honorable John W. Broomes, District Judge

Case No. 6:12-cr-10174-JWB-1

REPLY BRIEF OF APPELLANT

Pro Se

Philip Andrea Grigsby

Reg. # 22325-031

USP- Tucson

P.O. Box 24450

Tucson, AZ 85734

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STATEMENT OF ISSUES PRESENTED FOR REVIEW

I. WHETHER THE COURT PROPERLY CONCLUDED THAT IT LACKED JURISDICTION TO ADJUDICATE GRIGSBY'S MOTION.

STATEMENT OF CASE AND FACTS

" On February 3, 2025, Grigsby filed the motion that is the subject of this appeal. See R.1.47. In that motion, entitled "PRO SE MOTION REQUESTING RECOGNITION OF CHANGE OF GENDER AND ORDER FOR GENITAL REMOVAL," Grigsby explained that Grigsby has been living "as a gender nonconforming inmate in USP-Tucson for six years" and had legally changed Grigsby's birth middle name from "Andra" to "Andrea". R.1.47. Grigsby asked the court (1) "recognize Grigsby's change of gender to gender nonconforming"; (2) "recognize Grigsby's legal name change of Philip Andrea Grigsby, and to refer to Grigsby as Andrea or Grigsby (no pronouns)"; and (3) "order the Bureau of Prisons to schedule and to have performed a complete genital removal." R.1.47.

In response, the government opposed the motion, arguing that the court lacked jurisdiction to adjudicate Grigsby's motion. R.1.59-63.

On March 3, 2025, the court denied Grigsby's motion for lack of subject-matter jurisdiction R.1.66. The court did not reach the merits of Grigsby's claims because it discerned that it lacked jurisdiction to rule on the motion R.1.66. The court further noted that Grigsby "could have filed a reply that attempted to establish subject matter jurisdiction over Grigsby's claim," but "Grigsby made no such effort." R.1.66.

Under the prison-mailbox rule, Grigsby timely filed a notice of appeal. R.1.67.

SUMMARY OF ARGUMENTS

The court improperly refused to rule on the merits of Grigsby's motion, which was filed on February 3, 2025, stating the court lacked subject-matter jurisdiction to do so. The court claims jurisdiction over Grigsby's criminal case ended when the court docketed its amended judgement on July 30, 2013 (Dkt. 98). Grigsby plead to the court that Grigsby's motion concerned "notice to the court", "change of circumstances", and "extraordinary circumstances". Grigsby further offered to the court many legal avenues

available to the court that authorized subject-matter jurisdiction to the court to rule on the merits of Grigsby's motion. Grigsby also explained to the court that due to the Law Library being closed for several months and frequent lockdowns denying Grigsby access to the housing unit law computer, that Grigsby has to share with over one hundred other inmates, Grigsby was unable to research case law or file replies.

ARGUMENTS AND AUTHORITIES

I. THE COURT IMPROPERLY CONCLUDED THAT IT LACKED JURISDICTION TO ADJUDICATE GRIGSBY'S MOTION.

United States v. Grigsby, case no. 6:12-cr-10174-JWB
1 Docket Entry 98 was the end of Grigsby's criminal case, yet the district court had jurisdiction to hear and rule on multiple post-conviction motions. See Dkt. 100-366 to include Dkt. 119, 120, 122, 124, filed by the government and Dkt. 173 filed by Grigsby (§2255).

Issues Raised and Ruled On

The court considered Grigsby's claim in a written order filed on March 3, 2025. R. 1.1-2. The court did not reach the merits of Grigsby's claims because it discerned that it lacked jurisdiction to rule on the motion.

Standard of Review

The United States Constitution Amendment Fourteen provides that no state shall deny to any person within its jurisdiction the equal protection of the law, and requires that all persons similarly situated be treated alike.

Under Title IX, discrimination on the basis of sexual orientation is sex-based discrimination. See *Bostock v. Clayton Cnty.*, 590 U.S. 644, 669, 140 S.Ct. 1731, 207 L.Ed.2d 218 (2020) ("holding that under Title VII, discrimination based on homosexuality or transgender status necessarily entails discrimination based on sex"). *Dimas v. Pecos Indep. Sch. Bd. of Educ.*, Lexis-10378 (10th Cir. 2024)

"Jurisdiction is a threshold question which an appellate court must resolve before addressing the merits of the matter before it." *Timpanogos Tribe v. Conway*, 286 F.3d 1195, 1201 (10th Cir. 2002). "Absent a specific statutory grant of jurisdiction over a particular type of dispute, this Honorable Court has jurisdiction over final decisions of the federal district courts pursuant to 28 U.S.C. § 1291." *W. Energy All. v. Salazar*, 709 F.3d 1040, 1047 (10th Cir. 2013).

Subject-matter jurisdiction can take two forms: a facial or factual attack. *Baker v. USD 229 Blue Valley*, 979 F.3d 866, 871 (10th Cir. 2020). "A facial attack assumes allegations in the complaint are true and argues they fail to establish jurisdiction. By contrast, "a factual attack goes beyond the allegations in the complaint and adduces evidence to contest jurisdiction." And when faced with a factual attack on subject-matter jurisdiction, the district court has "wide discretion to allow affidavits, other documents, and a limited evidentiary hearing to resolve disputed jurisdiction facts." (quoting *Stuart v. Colo. Interstate Gas Co.*, 271 F.3d 1221, 1225 (10th Cir. 2001)).

Discussion

The court did not lack jurisdiction to consider Grigsby's motion.

A. Legal Authorities

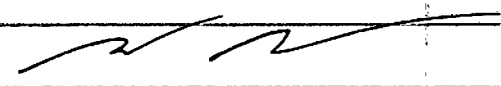
"Federal courts are courts of limited jurisdiction. They possess only that power authorized by the United States Constitution and Federal Statute." "Subject matter jurisdiction defines the court's authority to hear a given type of case," and noting that "the district courts have an independent obligation to address their own subject-matter jurisdiction." And before this court may rule on a district court's disposition of a matter, it must ensure that the district court had jurisdiction over that matter. *Bender v. Williamsport Area Sch. Dist.*, 475 U.S. 534, 541 (1986) (stating "every federal appellate court has a special obligation to satisfy itself not only of its own jurisdiction, but also that of the lower courts in a cause under review").

It is to be presumed that a cause lies outside this limited jurisdiction, and the burden of establishing the contrary rests upon the party asserting

Rule 60(b) "should be liberally construed when substantial justice will thus be served". *Thompson v. Kerr-McGee Refin. Corp.*, 660 F.2d 1380, 1385 (10th Cir. 1981). The Rule is a procedural acknowledgement that things change, that facts come to light, that decisions rendered may be unrendered; it is itself an exception to finality. See *Frew ex rel. Frew v. Hawkins*, 540 U.S. 431, 441, 124 S.Ct. 899, 157 L.Ed.2d 855 (2004) ("The Rule encompasses the traditional power of a court of equity to modify its decree in light of changed circumstances."). When there has been a "significant change either in factual conditions or in law." Rule 60(b)(5) "provides a means by which a party can ask a court to modify or vacate a judgment." *Home v. Flores*, 557 U.S. 433, 447, 129 S.Ct. 2579, 174 L.Ed. 406 (2009) (quoting *Rufo v. Inmates of Suffolk Cnty. Jail*, 502 U.S. 367, 384, 112 S.Ct. 748, 116 L.Ed.2d 867 (1992)). When a "significant change" is shown, a court abuses its discretion by refusing to modify or vacate the earlier judgment. (citing *Agostini v. Felton*, 521 U.S. 203, 215, 117 S.Ct. 1997, 138 L.Ed.2d 391 (1997)). By the Rule's text, significant change includes the reversal or vacatur of an earlier judgment. Fed. R. Civ. P. 60(b)(5) (providing "on motion and just terms, the court may

CONCLUSION

Grigsby respectfully requests this Honorable Court remand Grigsby's petition to the United States District Court for the District of Kansas, Wichita Division with an order to conduct an evidentiary hearing and consider the facts and due process of Grigsby's petition.


Philip Andrea Grigsby
Reg # 22325-031
USP-Tucson
P.O Box 24550
Tucson, AZ 85734

CERTIFICATE OF COMPLIANCE

As required by Fed. R. App. P. 32(a)(7)(c), Grigsby certifies that this reply brief is proportionally spaced and contains 3036 words. Grigsby hand counted the text in this brief by multiplying 253 lines of text x 12 words per line (average) = 3036 words. Grigsby further certifies that the information on this form and within this reply brief is true and correct to the best of Grigsby's knowledge and belief formed after a reasonable inquiry.

CERTIFICATIONS

Grigsby hereby certifies that this document (reply brief) was sent out through the inmate legal mail system at USP-Tucson, postage prepaid using the United States Postal System to the Clerk of Court, C.M. Wolper, United States Court of Appeals for the Tenth Circuit and one copy sent to James A. Brown, at 444 SE Quincy Ave., Suite 290, Topeka, Kansas 66683.

on this date: May 30, 2025

Respectfully Submitted,

Philip Andrea Grigsby

Reg. #22325-031

USP-Tucson

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Tucson, AZ 85734

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

FILED
United States Court of Appeals
Tenth Circuit

December 3, 2025

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

PHILIP ANDRA GRIGSBY,

Defendant - Appellant.

No. 25-3045
(D.C. No. 6:12-CR-10174-JWB-1)
(D. Kan.)

ORDER AND JUDGMENT*

Before **TYMKOVICH**, **BALDOCK**, and **PHILLIPS**, Circuit Judges.

Defendant Grigsby is completing a 260-year prison sentence imposed in 2013. *See United States v. Grigsby*, 749 F.3d 908, 909 (10th Cir. 2014). In February 2025, Grigsby filed a pro se motion asking the district court “to recognize Andrea Grigsby as a gender nonconforming person, refrain from using pronouns and to order the Bureau of Prisons to approve and have performed a full and complete genital removal

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

through surgery.” R. at 48. The district court concluded it lacked jurisdiction to address the motion and denied it on that basis. Grigsby timely appealed.

We review the district court’s ruling de novo. *See In re Special Grand Jury 89-2*, 450 F.3d 1159, 1170 (10th Cir. 2006) (“We review jurisdictional questions de novo.”). And we construe Grigsby’s pro se filings liberally, but we do not take on the role of advocate. *See James v. Wadas*, 724 F.3d 1312, 1315 (10th Cir. 2013).

As the district court correctly recognized, federal courts “possess only that power authorized by Constitution and statute, which is not to be expanded by judicial decree.” *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994) (citations omitted). “It is to be presumed that a cause lies outside this limited jurisdiction, and the burden of establishing the contrary rests upon the party asserting jurisdiction.” *Id.* (citations omitted).

While the district court had jurisdiction in Grigsby’s criminal case under 18 U.S.C. § 3231, that did not extend to the present motion, which Grigsby filed long after the court had entered final judgment. *See United States v. Garcia-Herrera*, 894 F.3d 1219, 1220 (10th Cir. 2018) (“[Section] 3231 by itself doesn’t give the district court jurisdiction over all post-conviction motions.” (internal quotation marks omitted)); *cf. United States v. Spaulding*, 802 F.3d 1110, 1112 (10th Cir. 2015) (“[Section] 3231 does not, standing alone, confer upon a district court jurisdiction to set aside a previously imposed criminal judgment . . .”).

Some statutes, such as 18 U.S.C. § 3582(c)(1), give district courts limited jurisdiction, in identified circumstances, to modify a sentence after it is imposed. *See*

United States v. McGee, 992 F.3d 1035, 1041 (10th Cir. 2021). But Grigsby's motion did not cite any such statute, or any other authority, that gave the district court jurisdiction in the circumstances here.

On appeal, Grigsby suggests Federal Rule of Civil Procedure 60(b), 18 U.S.C. §§ 3553(a), 3582(c)(1)(A), and/or *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024) authorized the district court to consider the motion. But Grigsby did not make any argument based on these authorities in district court, and also does not argue the district court committed plain error by overlooking any of them. We therefore do not address these unpreserved arguments. *See United States v. Leffler*, 942 F.3d 1192, 1196 (10th Cir. 2019) ("When an appellant fails to preserve an issue and also fails to make a plain-error argument on appeal, we ordinarily deem the issue waived . . . and decline to review the issue at all—for plain error or otherwise.").

Accordingly, we affirm the district court's denial of Grigsby's motion for lack of jurisdiction.

Entered for the Court

Timothy M. Tymkovich
Circuit Judge

APPENDIX F

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UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

No. 25-3045

v.

(D.C. No. 6:12-CR-10174-JWB-1)

(D. Kan.)

PHILIP ANDREA GRIGSBY,

Defendant - Appellant.

PRO SE MOTION FOR RECONSIDERATION
EN BANC

COMES NOW, the Appellant, Philip Andrea, Grigsby, Pro se, respectfully requests this Honorable Court Reconsider EN BANC the Order and Judgment of the above captioned case filed on December 3, 2025.

In support thereof Grigsby states:

1. If a complaint states a claim to relief that is plausible on its face, it survives a Fed. R. Civ. P. 12(b)(6).
2. Grigsby used the identical verbiage found in 18 U.S.C. § 3582 "extraordinary and compelling" clearly indicating Grigsby's intention was to use 18 U.S.C. § 3582 as the vehicle to argue the jurisdiction of the District court.
3. Grigsby's error in syntax by adding the word "and" instead of a

Period after ("extraordinary and compelling") is simply a misprint, (Appellant/Petitioner's Opening Brief, page 3a, the continuation of 3-Statement of issues, b. Second issue, Argument and Authorities, page 3.)

4. Grigsby's Appellant/Petitioner's Opening Brief was prepared by hand during a lock-down, passed back and forth under locked doors in order for another inmate with clearer hand writing to complete the above mentioned Brief using notes written by Grigsby.

5. Grigsby's responses to questions 4-7 on pages 4-4d of Grigsby's Appellant/Petitioner's Opening Brief clearly indicates the district court's plain errors. Isn't that what questions 4-7 are for?

6. On April 15, 2025 this Honorable Court denied Grigsby's motion requesting counsel be appointed, in that motion Grigsby used the verbiage "complex issues, exceptional circumstances, novel, justice so requires, complexity of the legal issues, Due Process, Fundamental Fairness, unique issues, and the interest of justice so require," all of these adjectives constitute extraordinary and compelling

7. Grigsby's victim RLG is now an adult and should now have a voice in the punishment of her abuser.

WHEREFORE, Grigsby respectfully requests this Honorable Court vacate and remand Grigsby's motion back to the district court with orders to consider the issues brought forth in Grigsby's

mation, appointment of counsel and a victim impact statement.

on this date:

Respectfully Submitted,

Philip Andrea Grigsby

Reg. # 22325-031

USP-TUCSON.

P.O. Box 24550

TUCSON, AZ 85734

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT
Byron White United States Courthouse
1823 Stout Street
Denver, Colorado 80257
(303) 844-3157
Clerk@ca10.uscourts.gov

Christopher M. Wolpert
Clerk of Court

Jane K. Castro
Chief Deputy Clerk

December 29, 2025

Ms. Skyler O'Hara
United States District Court for the District of Kansas
Office of the Clerk
401 North Market Street
U.S. Courthouse
Room 204
Wichita, KS 67202-0000

RE: 25-3045, United States v. Grigsby
Dist/Ag docket: 6:12-CR-10174-JWB-1

Dear Clerk:

Pursuant to Federal Rule of Appellate Procedure 41, the Tenth Circuit's mandate in the above-referenced appeal issued today. The court's December 3, 2025 judgment takes effect this date. With the issuance of this letter, jurisdiction is transferred back to the lower court.

Please contact this office if you have questions.

Sincerely,



Christopher M. Wolpert
Clerk of Court

cc: James A. Brown
Philip Andra Grigsby

CMW/sls

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

Office of the Clerk
Byron White United States Courthouse
Denver, Colorado 80257
(303) 844-3157

Christopher M. Wolpert
Clerk of Court

Jane K. Castro
Chief Deputy Clerk

January 2, 2026

Philip Andra Grigsby (# 22325-031)
USP Tucson
PO Box 24550
Tucson, AZ 85734

Re: 25-3045, *United States v. Grigsby*

Dear Philip Grigsby,

The mandate in the above referenced case issued on December 29, 2025. After the mandate issued, we received your pro se motion for reconsideration en banc. This case is closed. As a result, your petition for reconsideration en banc has not been filed, and the court will not take any action on it.

We regret we cannot be of greater assistance.

Sincerely,



CHRISTOPHER M. WOLPERT, Clerk

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

OFFICE OF THE CLERK

BYRON WHITE UNITED STATES COURTHOUSE
1823 STOUT STREET
DENVER, COLORADO 80257

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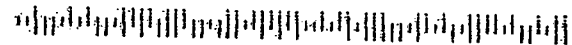
01/05/2026
368 0011820899

open only in the
presence of the inmate

A01-1314

Philip Andra Grigsby
22325-031
USP- Tucson
P.O. Box 24550
Tucson, AZ 85734

85734-455050



Received
January 21, 2026

Philip Andrew Grigsby
Reg# 22325-031
USP - Tucson
P.O. Box 24550
Tucson, AZ 85734

Christopher M. Wolpert
Clerk of Court
United States Court of Appeals
Tenth Circuit

Re: Pro se Motion For Reconsideration En Banc, (Case No. 25-3045)

Dear Clerk,

January 22, 2026

I officially accuse your office of violating my Right of Due Process. Your letter of January 2, 2026, that I received on January 22, 2026, advising me that my Motion for Reconsideration En Banc was received after the Mandate issued, this is a fabrication. Your office purposely failed to return my original Motion for Reconsideration En Banc and a copy of the envelope that contained it in an attempt to hide the date on the envelope and Motion for Reconsideration En Banc.

Where is my original Motion for Reconsideration En Banc and a copy of the envelope that contained it? Why did your office fail to state the date your office received my Motion for Reconsideration En Banc in your letter of January 2, 2026? Is it plainly obvious that your office is hiding the fact that my Motion for Reconsideration En Banc was timely filed.

According to my "Legal Mail Tag" I mailed the Motion for Reconsideration En Banc on December 17, 2025 using the legal mail system at United States Penitentiary - Tucson.

Please look into this issue and file my timely Motion for REconsideration En Banc.

Thank you for your valued time.

Philip Andrew Grigsby

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

Office of the Clerk
Byron White United States Courthouse
Denver, Colorado 80257
(303) 844-3157

Christopher M. Wolpert
Clerk of Court

Jane K. Castro
Chief Deputy Clerk

February 2, 2026

Philip Andra Grigsby (# 22325-031)
USP Tucson
PO Box 24550
Tucson, AZ 85734

Re: 25-3045, *United States v. Grigsby*

Dear Philip Grigsby,

We are in receipt of your letter dated January 22, 2026. Please be advised we received your Motion for Reconsideration En Banc on December 29, 2025, after the mandate had issued in the above-referenced case. The Motion for Reconsideration En Banc was postmarked December 19, 2025. You may obtain copies of documents from the court by prepaying the copy cost (\$0.50 per page). *See* 28 U.S.C. § 1913 Judicial Conference Schedule of Fees.

Sincerely,



CHRISTOPHER M. WOLPERT, Clerk

APPENDIX G

APPENDIX G

APPENDIX G

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No. _____

IN THE SUPREME COURT OF THE UNITED STATES

PHILIP ANDREA GRIGSBY
Petitioner,

vs.

UNITED STATES OF AMERICA
Respondent.

ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT
OF APPEALS FOR THE TENTH CIRCUIT

APPLICATION TO JUSTICE GORSUCH
TO EXTEND TIME TO FILE
PETITION FOR CERTIORARI
(Sup. Ct. R. 13.5)

RELIEF SOUGHT

Philip Andrea Grigsby, on behalf of himself (Identifies as non-binary) request that Justice Gorsuch, Justice for the Tenth Circuit, extend the time for filing a petition for writ of certiorari to the United States Court of Appeals for the Tenth Circuit in the matter of United States v. Grigsby, No. 25-3045 for a period of 60 days, from March 3, 2026, up to and including May 2, 2026.

GROUND'S FOR RELIEF

Judgements Below

On March 11, 2025, petitioner duly appealed this pro se Motion Requesting Recognitions of Change of Gender and Order for Genital Removal to the United States Court of Appeals for the Tenth Circuit. This court affirmed the denial of Grigsby's Pro Se Motion Requesting Recognitions of Change of Gender and Order for Genital Removal by its order entered on December 3, 2025. A true and Correct (updated) copy of the opinion and order of the court is reported at United States v. Grigsby, No. 25-3045 (Dist/Ag docket: 6:12-CR-10174-JWB-1).

Jurisdiction

The Supreme Court will have jurisdiction over this matter because 28 U.S.C. §1254(1) gives the Court jurisdiction over an appeal of a final judgement of a United States Court of Appeals.

Reasons Why Relief From Time Limit Needed

Under Supreme Court Rule 13.1, time for filing of a Petition for Writ of Certiorari in this matter expires on March 3, 2026.

Petitioner, a layperson, relied on limited research material and limited to file a timely Petition for Writ of Certiorari in this matter due to : 1. Petitioner is unrepresented by counsel thus forced to assume Pro Se status, 2. Petitioner is incarcerated in Federal Prison, 3. Appointment of counsel for Petitioner's unique and extraordinary issues was denied by both the United States District Court, for the District of Kansas, Wichita Division and the United States Court of Appeals for the Tenth Circuit, thus denying Petitioner proper legal representation as guaranteed under the Sixth Amendment of the United States Constitution.

Petitioner reasonably relied on legal reference material available in

the prison Law Library to perfect a timely filed Writ of Certiorari and relied on a mere four [4] hour per day (Mon. - Fri.) often interfered with by Law Library closures due to holidays and frequent lock downs which hindered the Petitioner proceeding Pro Se.

Need for Length of Extension Sought

The attached Motion for Reconsideration is in dispute due to the alleged violation of the Pro Se Mail Box Rule by petitioner against the clerk of court, United States Court of Appeals for the Tenth Circuit that was placed in the prison mail box dated December 17, 2025, Fourteen [14] days after the December 3, 2025 final judgement.

The extraordinary issues within the petitioner's motions as argued Pro Se will and does take an extra amount of time due to the absence of case law to back up petitioner's arguments which are "unique circumstances" that needs trained counsel to argue.

Persuasive Grounds for Certiorari in This Case

Petitioner raises grave Constitutional questions concerning the First, Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States which reach far into our changing times.

Petitioner is presently serving a 3,120 month sentence.

Dated: February 17, 2026

Philip Andrea Grigsby, Pro Se
Reg. # 22325-031
USP-Tucson
P.O. Box 24550
Tucson, AZ 85734



FCC TUCSON

INMATE BULLETIN

(Law Library Update)

Central Office, Trust Fund provided the following information. The vendor / company who was under contract in providing this service (Law Library Updates) expired. The bid was announced and closed last week. Central Office, Trust Fund, didn't have any more information on this currently. They do not have an estimated time when this will be completed.

Trust Fund provides the equipment / vehicle for this service but does not have anything to do with the program itself. It's a lot like FSA minutes we provide the phone, but we do not enter the FSA incentives into the system. We simply provide the equipment / vehicle for this.

This is a national issue and is being addressed.

APPENDIX 1

AFFIDAVIT OF
PHILIP ANDREA GRIGSBY

State of Arizona)
)
County of Pima)

Philip Andrea Grigsby, being duly sworn, deposes and states:

My name is Philip Andrea Grigsby. I am over 18 years of age. I reside at United States Penitentiary - Tucson, P.O. Box 24550, Tucson, AZ 85734. I am fully competent to make this affidavit and I have personal knowledge of the facts stated in this affidavit. To my knowledge, all of the facts stated in this affidavit are true and correct.

I am the Petitioner in the courts below and I am the Petitioner in this matter. I make this affidavit in Support of the Motion for an Extension of Time to File a Petition for Writ of Certiorari.

After my Pro se Motion Requesting Recognitions of Change of Gender and Order for Genital Removal was affirmed by the Tenth Circuit Court of Appeals, I exercised my Due Process Right to file a writ of certiorari in the Supreme Court of the United States.

I signed this affidavit on _____ at Tucson, Arizona.

Philip Andrea Grigsby

SUBSCRIBED AND SWORN TO BEFORE ME on _____ at United States Penitentiary Tucson, Arizona.

Case Manager Signature

Case Manager Printed Name

Case Manager in and for the United States Department of Justice,
Federal Bureau of Prisons, Tucson, Arizona.

APPENDIX H

APPENDIX H

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APPENDIX H

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APPENDIX H

APPENDIX H

Person Filing: Philip Andra Grigsby, Reg. #22325-031

FILED
OCT 18 2024

Address (if not protected): USP-Tucson, P.O. Box 24550

City, State, Zip Code: Tucson, AZ, 85734

GARY L. HARRISON, Clerk

Telephone: N/A

Email Address: N/A

ROSA WARD-VALENZUELA Dep

Attorney Bar Number: N/A

Representing ☒ Self or ☐ Attorney for N/A

ARIZONA SUPERIOR COURT, PIMA COUNTY

In the Matter of the Application of)

C20246357

Philip Andra Grigsby)

Applicant)

Case No. _____

APPLICATION FOR
CHANGE OF NAME FOR AN ADULT

Greg Sakall

1. Applicant: Philip Andra Grigsby

Date of Birth March 26, 1962

is a resident of (County) Pima

2. Requests a change of name for the following reason:

I identify as gender NON-conforming and wish to change my
middle name Andra to Andrea

3. Applicant Philip Andra Grigsby, ☒ has not been convicted of a felony. This application is made solely for applicant's best interests and will not operate to release applicant from any obligations applicant has incurred or is under, or defeat or destroy any rights of property or action had in applicant's original name.

THEREFORE, applicant requests that the court enter an order that the present name of Philip Andra Grigsby be changed to Philip Andrea Grigsby

And that the Office of Vital Records is ordered to amend the birth record to reflect the new name ordered above if requested.

Unsworn Declaration Under Penalty of Perjury

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

Executed on 10/15/2024

[Signature]
Signature of Applicant

BEST COPY

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Attorney Bar Number: _____
Representing [] Self or [] Attorney for _____

FILED
GARY L. HARRISON
CLERK, SUPERIOR COURT
24 NOV 26 PM 1:02

MATTHEW McCLENDON, DEPUTY

ARIZONA SUPERIOR COURT, PIMA COUNTY

In the Matter of the Application of)

Philip Andrea Grigsby)
Applicant)

Case No. C20246357

ORDER CHANGING NAME FOR AN ADULT

Applicant having filed an Application for Change of Name for an Adult; the cause came on regularly to be heard this 25th day of November, 20 24, before this Court.

The Court having read the Application and having fully considered the matter, and good cause appearing therefore,

IT IS ORDERED that the name of Philip Andrea Grigsby (03/26/1962)
(Applicant's Current Name and Date of Birth)
be changed to Philip Andrea Grigsby
(Applicant's New Name)

- ☐ For a person born in the State of Arizona, the Office of Vital Records is ordered to amend the birth record to reflect the new name ordered above.
- ☒ For a person born in a state other than Arizona, to the extent that the agency that maintains birth records in that state is authorized to honor an order of the Court, that agency is requested or ordered to amend its birth records to reflect the new name as ordered above.

DONE IN OPEN COURT this 25 day of November, 20 24

Judicial Officer

STATE OF ARIZONA } ss.
COUNTY OF PIMA }

The foregoing instrument is a full, true, and correct copy of the original on file in this office.

Attested DEC 29 2025
JAMES W. GIACOMINO, Clerk
By Candra Ba Deputy

**Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001**

Scott S. Harris
Clerk of the Court
(202) 479-3011

NOTIFICATION LIST

Mr. Philip Andrea Grigsby
Prisoner ID 22325-031
USP- Tucson
P.O. Box 24550
Tucson, AZ 85734

Mr. D. John Sauer
Solicitor General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Clerk
United States Court of Appeals for the Tenth Circuit
Byron White Courthouse
1823 Stout Street
Denver, CO 80257

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

PHILIP ANDREA GRIGSBY
Petitioner,

vs.

UNITED STATES OF AMERICA
Respondent.

ON WRIT OF CERTIORARI TO THE
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APPLICATION TO JUSTICE GORSUCH
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Dated: February 17, 2026

Philip Andrea Grigsby, Pro Se
Reg. # 22325-031
USP-Tucson
P.O. Box 24550
Tucson, AZ 85734

APPENDIX 1

AFFIDAVIT OF
PHILIP ANDREA GRIGSBY

State of Arizona)
)
County of Pima)

Philip Andrea Grigsby, being duly sworn, deposes and states:

My name is Philip Andrea Grigsby. I am over 18 years of age. I reside at United States Penitentiary - Tucson, P.O. Box 24550, Tucson, AZ 85734. I am fully competent to make this affidavit and I have personal knowledge of the facts stated in this affidavit. To my knowledge, all of the facts stated in this affidavit are true and correct.

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I signed this affidavit on _____ at Tucson, Arizona.

Philip Andrea Grigsby

SUBSCRIBED AND SWORN TO BEFORE ME on _____ at United States Penitentiary Tucson, Arizona.

_____ Case Manager Signature

_____ Case Manager Printed Name

Case Manager in and for the United States Department of Justice,
Federal Bureau of Prisons, Tucson, Arizona.



FCC TUCSON INMATE BULLETIN

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This is a national issue and is being addressed.

**United States of America, Plaintiff, vs. Philip Andra Grigsby, Defendant.
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS**

2014 U.S. Dist. LEXIS 18812

Case No. 12-10174-01-JTM

February 14, 2014, Decided

February 14, 2014, Filed

Editorial Information: Subsequent History

Motion denied by United States v. Grigsby, 2014 U.S. Dist. LEXIS 20327 (D. Kan., Feb. 19, 2014) Decision reached on appeal by United States v. Grigsby, 749 F.3d 908, 2014 U.S. App. LEXIS 6967 (10th Cir. Kan., Apr. 15, 2014) Motion denied by United States v. Grigsby, 2014 U.S. Dist. LEXIS 100098 (D. Kan., July 23, 2014) Motion denied by, Objection overruled by United States v. Grigsby, 2015 U.S. Dist. LEXIS 12922, 2015 WL 471248 (D. Kan., Feb. 4, 2015) Related proceeding at Grigsby v. Lemuz, 2015 U.S. Dist. LEXIS 151924 (D. Kan., Feb. 12, 2015) Motion denied by, Motion granted by United States v. Grigsby, 2015 U.S. Dist. LEXIS 28736, 2015 WL 1034415 (D. Kan., Mar. 10, 2015) Post-conviction relief denied at, Certificate of appealability denied, Motion granted by, Motion denied by, Stay denied by United States v. Grigsby, 2015 U.S. Dist. LEXIS 150312, 2015 WL 6801721 (D. Kan., Nov. 5, 2015) Motion granted by, in part, Motion denied by, in part, Motion denied by, Motion granted by United States v. Grigsby, 2016 U.S. Dist. LEXIS 34170, 2016 WL 1056560 (D. Kan., Mar. 16, 2016) Related proceeding at, Dismissed without prejudice by, Motion denied by, Motion granted by Grigsby v. Dick, 2016 U.S. Dist. LEXIS 66869 (D. Kan., May 20, 2016) Related proceeding at, Dismissed without prejudice by, Motion granted by, Motion denied by Grigsby v. Marten, 2016 U.S. Dist. LEXIS 66874 (D. Kan., May 20, 2016) Motion denied by United States v. Grigsby, 2016 U.S. Dist. LEXIS 98657 (D. Kan., July 26, 2016) Appeal dismissed by, Motion denied by, As moot United States v. A. Dell Inspiron Laptop, 665 Fed. Appx. 708, 2016 U.S. App. LEXIS 21865 (10th Cir. Kan., Dec. 8, 2016) Motion denied by, Petition denied by United States v. Grigsby, 2016 U.S. Dist. LEXIS 178281, 2016 WL 7425949 (D. Kan., Dec. 23, 2016) Motion denied by United States v. Grigsby, 2017 U.S. Dist. LEXIS 63456 (D. Kan., Apr. 25, 2017) Appeal dismissed by, As moot United States v. Grigsby, 686 Fed. Appx. 595, 2017 U.S. App. LEXIS 7233, 2017 WL 1454010 (10th Cir., Apr. 25, 2017) Motion denied by, Motion dismissed by United States v. Grigsby, 2018 U.S. Dist. LEXIS 5790 (D. Kan., Jan. 12, 2018) Decision reached on appeal by United States v. Grigsby, 737 Fed. Appx. 375, 2018 U.S. App. LEXIS 15040, 2018 WL 2676180 (10th Cir., June 5, 2018) Writ of habeas corpus dismissed Grigsby v. Baltazar, 2018 U.S. Dist. LEXIS 123059, 2018 WL 11009372 (D. Kan., July 24, 2018) Motion denied by United States Am. v. Grigsby, 2018 U.S. Dist. LEXIS 209118 (D. Kan., Dec. 12, 2018) Motion dismissed by, Certificate of appealability denied United States v. Grigsby, 2019 U.S. Dist. LEXIS 122020, 2019 WL 3302322 (D. Kan., July 23, 2019) Motion denied by, Sanctions disallowed by, Sanctions allowed by, in part United States v. Grigsby, 2020 U.S. Dist. LEXIS 45718, 2020 WL 1272115 (D. Kan., Mar. 17, 2020) Motion dismissed by United States v. Grigsby, 2021 U.S. Dist. LEXIS 5282 (D. Kan., Jan. 12, 2021) Motion denied by, Stay denied by United States v. Grigsby, 2021 U.S. Dist. LEXIS 36145 (D. Kan., Feb. 26, 2021) Decision reached on appeal by, Motion granted by United States v. Grigsby, 854 Fed. Appx. 249, 2021 U.S. App. LEXIS 9246, 2021 WL 1187409 (10th Cir. Kan., Mar. 30, 2021) Writ of habeas corpus dismissed, Motion denied by, Without prejudice Grigsby v. Howard, 2021 U.S. Dist. LEXIS 264972, 2021 WL 11394361 (D. Ariz., Aug. 24, 2021) Habeas corpus proceeding at, Magistrate's recommendation at Grigsby v. Colbert, 2022 U.S. Dist. LEXIS 42588, 2022 WL 2919371 (D. Ariz., Mar. 10, 2022) Motion denied by United States v. Grigsby, 2022 U.S. Dist. LEXIS 222745, 2022 WL 17555408 (D. Kan., Dec.