

24 Jun 26

Justice Kavanaugh:

I request a 60 day extension of time to file a petition for writ of certiorari in the U.S. Sixth Circuit Court of Appeals, Case Nos. 24-5382/24-5451 (U.S. v Terry Wayne Cope). I need the time to research the issues and case law to present in my petition.

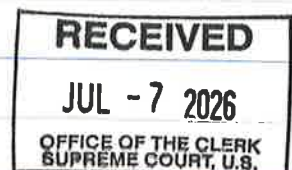
Thank you,  
Terry Wayne Cope

Terry Wayne Cope  
#06887-032  
Forrest City Low  
PO Box 9000  
Forrest City, AR  
72336

I certify under penalty of perjury that I placed this document in the prison mailbox, properly addressed with first class postage affixed. I also sent a copy to the Acting Attorney General.

24 Jun 26

Terry W. Cope



NOT RECOMMENDED FOR PUBLICATION

Nos. 24-5382/5451

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

**FILED**  
Apr 9, 2026  
KELLY L. STEPHENS, Clerk

UNITED STATES OF AMERICA, )  
 )  
Plaintiff-Appellee, )  
 )  
v. ) ON APPEAL FROM THE UNITED  
 ) STATES DISTRICT COURT FOR  
 ) THE EASTERN DISTRICT OF  
TERRY WAYNE COPE, ) KENTUCKY  
 )  
Defendant-Appellant. )

ORDER

Before: BOGGS, STRANCH, and DAVIS, Circuit Judges.

Terry Wayne Cope, a pro se federal prisoner, appeals two district court orders: one denying his motion for a new trial (24-5382), and the other denying his supplemental motion (24-5451). Those appeals have been consolidated. Cope moves for the appointment of counsel, the production of trial transcripts and other documents, and to correct the record. The government moves to dismiss his appeals for lack of jurisdiction. 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). For the reasons that follow, we deny the government's motion to dismiss, deny Cope's motions, and affirm the district court's orders.

In 2000, a jury convicted Cope of several attempted-murder and firearms offenses. His convictions stemmed from his and his brother's efforts to kill three witnesses—Cope's ex-wife, her husband, and the ex-fiancée of Cope's brother—to prevent them from testifying in a separate criminal case. See *United States v. Cope*, 312 F.3d 757, 764 (6th Cir. 2002). The district court sentenced Cope to 502 months of imprisonment. *Id.* at 767. His direct appeal and several attempts

to win post-conviction relief failed. *See id.* at 781; *Cope v. United States*, 385 F. App'x 531, 532 (6th Cir. 2010).

In 2024, twenty-four years after the jury returned its guilty verdict, Cope moved for a new trial under Federal Rule of Criminal Procedure 33, arguing that he did not have an impartial jury and complaining that his copy of the trial transcript does not include voir dire. In an accompanying motion to compel, he claimed that the transcript omits seven hours of "[j]ury selection proceedings." He argued that the complete transcript was "essential to proving that the voir dire was insufficient to eliminate biased veniremen." Cope stated that he faced "an anonymous jury," which he did not realize was a "rarity." The district court, after noting that Cope failed to "substantiate his claim" of jury bias, denied the motion as grossly untimely under Rule 33, which requires such motions to be filed, at the least, within three years of the verdict. Cope appealed.

*asked to do so*

Cope also filed a motion to supplement his reply, asserting that he believed that the jurors whose identities *were* disclosed to him were "likely" biased against him. He explained that, once jurors saw him reviewing their personal questionnaires and knew that he was charged with attempting to kill several potential witnesses, the jurors expressed their fear to the prosecutor. According to Cope, "the [prosecutor] responded by requesting an anonymous jury," but that "did nothing to ease the fears of those whose information was already disclosed." The district court denied this motion as moot given that he had appealed its prior holding that his Rule 33 motion was time-barred.

On appeal of both decisions, Cope argues that the inadequate voir dire resulted in a biased jury, which he claims is a structural error requiring reversal. He also argues that his motion is not untimely because Federal Rule of Criminal Procedure 45(b)(1)(B) permits an extension for excusable neglect. The government moves to dismiss his appeals, arguing that the district court lacked jurisdiction to consider the merits of his Rule 33 motion, because it was untimely. But, as the government acknowledges, "Rule 33 . . . is a claim-processing rule," which is "nonjurisdictional." *Eberhart v. United States*, 546 U.S. 12, 19 (2005) (per curiam).

We review the denial of a Rule 33 motion for abuse of discretion. *United States v. Hunter*, 558 F.3d 495, 507 (6th Cir. 2009). Under Rule 33, a district court "may vacate any judgment and

grant a new trial if the interest of justice so requires.” Fed. R. Crim. P. 33(a). But a Rule 33 “motion for a new trial grounded on newly discovered evidence must be filed within 3 years after the verdict,” while a motion “grounded on any [other] reason . . . must be filed within 14 days after the verdict.” Fed. R. Crim. P. 33(b). Cope’s motion, which was not grounded on new evidence, thus had to be filed within 14 days, but Cope filed his motion 24 years after the guilty verdict in his case. He cites Rule 45, which empowers district courts to extend a time requirement “for good cause . . . if the party failed to act because of excusable neglect.” Fed. R. Crim. P. 45(b)(1)(B).

But Cope did not ask the district court for an extension under Rule 45 ~~or~~ present a plausible basis for one. His contention that he did not “know[] the law” and just “became aware” of some alleged problem with the jury two decades after his trial does not arguably satisfy the equitable standard for excusable neglect. *See United States v. Munoz*, 605 F.3d 359, 368 (6th Cir. 2010). Indeed, “ignorance of the rules, or mistakes construing the rules[,] do not usually constitute ‘excusable’ neglect.” *United States v. Hills*, 27 F.4th 1155, 1172 (6th Cir. 2022) (quoting *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P’ship*, 507 U.S. 380, 392 (1993)).

no transcript

Therefore, we **DENY** the government’s motion to dismiss and Cope’s motions, and we **AFFIRM** the district court’s orders.

ENTERED BY ORDER OF THE COURT

  
\_\_\_\_\_  
Kelly L. Stephens, Clerk

**United States Court of Appeals for the Sixth Circuit**

**U.S. Mail Notice of Docket Activity**

The following transaction was filed on 04/09/2026.

**Case Name:** USA v. Terry Cope

**Case Number:** 24-5382

**Docket Text:**

ORDER filed: Therefore, we DENY the government's motion to dismiss and Cope's motions [7157316-2] [7157359-2] [7165028-2] [7204718-2] [7157316-2] [7157359-2] [7165028-2] [7204718-2] [7157316-2] [7157359-2] [7165028-2] [7204718-2] 7157316-2] [7157359-2] [7165028-2] [7204718-2], and we AFFIRM the district court's orders. Mandate to issue; [7157316-2] [7157359-2] [7165028-2] [7204718-2] pursuant to FRAP 34(a)(2)(C), decision not for publication. Danny J. Boggs, Circuit Judge; Jane Branstetter Stranch, Circuit Judge and Stephanie Dawkins Davis, Circuit Judge. [24-5382, 24-5451]

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

Document Description: Order

**Notice will be sent to:**

Mr. Terry Wayne Cope  
F.C.I. Forrest City - Low  
P.O. Box 9000  
Forrest City, AR 72336

**A copy of this notice will be issued to:**

Mr. Robert R. Carr  
Ms. Elaine K. Leonhard  
Mr. Charles P. Wisdom Jr.