

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

LaTausha Simmons, Plaintiff-Appellant-Petitioner

v.

City of Warren, MI, et al, Defendant-Appellee-Respondent

Originating Case No. 25-1643/1646/1648 in the Sixth Circuit Court of Appeals

MOTION FOR EXTENSION OF TIME TO FILE PETITION FOR WRIT OF CERTIORARI

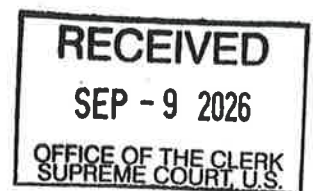
To the Honorable Brett M. Kavanaugh, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Sixth Circuit:

Pursuant to Supreme Court Rules 13.5, 22, and 30, Petitioner, LaTausha Simmons, proceeding pro se, respectfully applies for an extension of time of 60 days to file a petition for a writ of certiorari in the above-captioned matter. The petition seeks review of the order of the United States Court of Appeals for the Sixth Circuit entered on July 28, 2026, denying Petitioner's appeal/ motion to reinstate Nos. 25-1643/1646/1648. A copy of that order is attached as **Exhibit A**. Petitioner requests an extension of 60 days, up to and including **November 27, 2026**. This extension is requested for good cause and is not for the purpose of delay.

TIMELINESS OF THIS APPLICATION

The order Petitioner seeks to review was issued by the Sixth Circuit on July 28, 2026. The 90-day period for filing a petition for a writ of certiorari expires on or about **November 27, 2026**. This application is being filed on August 27, 2026, which is more than 10 days before the deadline, in compliance with Supreme Court Rule 13.5.

The pertinent date(s) are:



a: July 28, 2026, denying Petitioner's appeal/motion to reinstate Nos. 25-1643/1646/1648. A copy of that order is attached as **Exhibit A**.

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1). The petition will seek review of the Sixth Circuit's final order denying Petitioner's motion to reinstate Nos. 25-1643/1646/1648, which challenged the district court's dismissal of the section 1983 case based on late received, although timely postmarked, objections to the magistrate's report and recommendations in a case wherein the magistrate stated that the federal double jeopardy constitutional laws do not apply to Petitioner's case when she was acquitted on appeal on December 26, 2018.

STATEMENT OF FACTS

This matter arises from a prolonged and complex series of state and federal court proceedings stemming from constitutional violations that occurred in May 2016. During a Terry stop on private property in Michigan, Petitioner was subjected to excessive force, falsely arrested, unlawfully searched and seized, and falsely imprisoned. She was subsequently maliciously prosecuted for exercising her Fifth Amendment right to remain silent. During the state criminal proceedings, exculpatory video evidence was destroyed by Warren police officers. The trial judge prevented Petitioner's counsel from arguing all the required elements of the charged offense, leading to an insufficiency of evidence error and a finding of ineffective assistance of counsel. Despite these deficiencies, Petitioner was wrongfully convicted.

In December 2018, the Macomb County Circuit Court, on appeal, acquitted Petitioner of all charges, declared her an innocent person, and barred retrial pursuant to the Double Jeopardy Clause. The Macomb County Prosecutor's Office, however, sought to undermine this final judgment by filing a motion for reconsideration, in which it misrepresented that it

had not been properly served with Petitioner's claim of appeal. This action caused years of delay in the appellate process.

Petitioner filed a civil rights lawsuit under 42 U.S.C. § 1983 in federal district court against the police officers and the city for the aforementioned constitutional violations. That lawsuit was stayed from May 2020 until February 2024, pending the final resolution of the criminal matter. During this eight-year ordeal, Petitioner was subjected to repeated false arrests and imprisonment related to the same case. Petitioner even filed her habeas corpus in the state and federal courts however, the state court failed and/or refused to adjudicate her petition and the federal court dismissed her petition, alleging a failure of Petitioner to exhaust state court remedies.

The state court charges were finally dismissed in Petitioner's favor in February 2024. Following the dismissal, Petitioner, acting pro se, filed her **second** Petition for a Writ of Habeas Corpus in the United States District Court for the Eastern District of Michigan. The petition raised claims of ineffective assistance of counsel, violations of due process, violations of the Double Jeopardy Clause, false arrest, false imprisonment, and excessive force. Critically, the petition challenged a Michigan Supreme Court decision which held that double jeopardy did not apply to her December 2018 order of acquittal. The District Court dismissed the habeas petition and denied a Certificate of Appealability. Petitioner timely appealed to the United States Court of Appeals for the Sixth Circuit which in June 2026, denied Petitioner's application for a Certificate of Appealability.

During which time Petitioner's section 1983 case was ongoing. However, the district court magistrate judge issued a report and recommendation dismissing all of Petitioner's claims and Petitioner timely mailed her objections, however the objections were not received by the district court until weeks later due to mailing delays. Therefore the district court adopted the report and recommendations dismissing Petitioner's case including her claim of violations of double jeopardy.

REASONS JUSTIFYING AN EXTENSION

Good cause exists for granting this extension.

1. **Complexity of the Case and Pro Se Status:** Petitioner is a pro se litigant with limited legal knowledge and resources. The case involves a complex procedural history spanning eight years, two court systems (state and federal), and multiple constitutional issues, including malicious prosecution, false imprisonment, and violations of the Fourth, Fifth, and Fourteenth Amendments.

The central issue is a significant question of federal law concerning the **Double Jeopardy Clause** and its application to a state court acquittal on appeal, which the state prosecutor and state Michigan Supreme Court subsequently attempted to invalidate and that the district court and Sixth Circuit Court have erroneously applied to Petitioner's claims.

Drafting a petition that adequately presents these complex issues requires additional time.

2. **Substantial Federal Questions Presented:** The petition will raise multiple federal questions that warrant this Court's review:
 - a. Whether a state appellate court's unequivocal order of acquittal, which declared the petitioner "an innocent person," constitutes a final acquittal for purposes of the Double Jeopardy Clause, thereby barring any state-level reconsideration or retrial, consistent with this Court's precedent in *Evans v. Michigan*, 568 U.S. 313 (2013). The Michigan courts' actions in this case appear to directly conflict with *Evans*. As such, are such claims viable to raise in Petitioner's section 1983 case.
 - b. Whether a federal habeas corpus petition remains a viable remedy to challenge a state supreme court decision on federal constitutional grounds even after the underlying state criminal charges have been dismissed, especially when the petitioner continues to suffer collateral consequences from the prolonged and

allegedly malicious prosecution. As such, does Petitioner's claims under the violations of double jeopardy apply to her claims, remain viable.

- c. Whether the timely U.S. postmarked filing of objections to the report and recommendation, and at no fault of the Petitioner, the objections were received late by the district court and were overruled, are still considered timely.
- d. Whether false imprisonment of Petitioner, in case which terminated in her favor, which prevented her from receiving the Sixth Circuit's scheduling order filing her brief timely, and her appeal was dismissed for the want of prosecution, wherein she was denied access to the courts during the false jailing, constitute excusable neglect to justify reinstating her appeal, which involves double jeopardy.

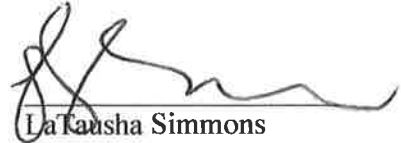
3. **Need to Assemble the Complete Record:** To adequately prepare the petition, Petitioner must assemble a comprehensive appendix of relevant orders and opinions from the Macomb County Circuit Court, the Michigan Court of Appeals, the Michigan Supreme Court, the U.S. District Court for the Eastern District of Michigan, and the U.S. Court of Appeals for the Sixth Circuit. As a pro se litigant, obtaining certified copies of these numerous and decades-old documents is a time-consuming process.

For these reasons, a 60-day to 90-day extension is necessary to permit Petitioner to conduct the required research, gather the necessary documents, and prepare a thorough and coherent petition for writ of certiorari.

CONCLUSION

WHEREFORE, for the foregoing reasons, Plaintiff-Appellant-Petitioner Simmons, who is indigent, respectfully prays that this Supreme Court grant an extension of sixty (60) to ninety (90) days and including November 27, 2026, within which to file his petition for writ of certiorari.

Respectfully submitted, this 27th day of August, 2026.



LaTausha Simmons
20500 Dean St
Detroit, Michigan 48234
Phone N/A
Email N/A

CERTIFICATE OF SERVICE

I, LaTausha Simmons, certifies that on this 27th day of August, 2026, the foregoing document, Motion for Extension of Time To File Petition For Writ of Certiorari was served by first-class mail, with postage prepaid, addressed on opposing counsel of record at their last known address of record.

/s/LaTausha Simmons
LaTausha Simmons

Ex HIBITA

FILED
Jul 28, 2026
KELLY L. STEPHENS, Clerk

FILED
Jul 28, 2026
KELLY L. STEPHENS, Clerk

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O R D E R

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

In these consolidated appeals, LaTausha Simmons, proceeding without counsel, appeals several district court orders arising from her civil complaint against municipal defendants after an encounter with law enforcement and her subsequent arrest. When Simmons failed to file a brief—following two extensions—the clerk dismissed the appeals for want of prosecution on December 26, 2025. Simmons moves to reinstate the appeals. Both groups of defendants respond in opposition, and Simmons replies.

In May 2019, Simmons filed a pro se civil complaint against the City of Warren, Michigan, Macomb County, Michigan, and various officials from both municipalities following a confrontation with law enforcement that resulted in her arrest and detention. The district court stayed the case pending the resolution of state criminal proceedings against Simmons. In April 2025, after the district court lifted the stay, a magistrate judge recommended granting the City of Warren defendants' motion for summary judgment, granting the Macomb County defendants' motion for judgment on the pleadings and summary judgment, and permanently enjoining Simmons from filing new complaints without leave of court. The magistrate judge issued a separate recommendation to deny Simmons's fourth motion to amend her complaint. Although

Simmons's incarceration undoubtedly presented challenges, although she has not acted as promptly as she might have in seeking reinstatement. *See Meyers v. Birdsong*, 83 F.4th 1157, 1159 (9th Cir. 2023) (order) (considering as factors in a reinstatement determination the "reason for the failure to prosecute" and "timeliness of the motion"). Simmons alleges that she did not receive any response to her November, December, and January filings, and yet she waited until late February/early March to call the clerk's office and inquire about the status of her case. And, despite Simmons's apparent ability to draft and submit documents, she has not yet filed her brief. The defect that led to dismissal has not been cured. *Id.* (considering as a factor in reinstatement a local rule requiring the defect to be cured).

Nor does Simmons demonstrate that her appeals are meritorious. *RLI Ins. Co. v. JDJ Marine, Inc.*, 716 F.3d 41, 44 (2d Cir. 2013) (per curiam) (An appeal's merit is "an important factor in determining whether reinstatement of an appeal is appropriate." (citation omitted)). In No. 25-1643, Simmons appeals the district court's order adopting the magistrate's recommendation and granting judgment to the defendants. Although we generally review a grant of summary judgment and judgment on the pleadings de novo, *Fortney & Weygandt, Inc. v. Am. Mfrs. Mut. Ins. Co.*, 595 F.3d 308, 310 (6th Cir. 2010), Simmons waived appellate review of the magistrate judge's findings by failing to timely object to the reports and recommendations, *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981). In 25-1646, Simmons appeals the district court's post-judgment order overruling as untimely her objections to the magistrate judge's report and recommendation. Although the waiver rule in *Walters* is not jurisdictional, it nonetheless applies here because the district court ultimately declined to consider the merits of Simmons's untimely objections. *Bosley v. 21 WFMJ Television, Inc.*, 245 F. App'x 445, 450 (6th Cir. 2007) (citation omitted); *cf. Patterson v. Mintzes*, 717 F.2d 284, 286 (6th Cir. 1983) (concluding that when untimely objections are "nevertheless filed *and considered* by the district court . . . the [*Walters*] rule will not apply to bar appellate review" (emphasis added)). We "may excuse the

Simmons twice received extensions of time to file objections to the reports and recommendations, she never filed objections. The district court ultimately adopted the magistrate judge's recommendations and denied Simmons leave to amend her complaint, granted summary judgment/judgment on the pleadings to the defendants, and enjoined Simmons from filing a new complaint without leave. Simmons appeals the order adopting the reports and recommendations in No. 25-1643.

Approximately three weeks after the district court's judgment, Simmons finally filed her objections to the magistrate judge's reports and recommendations, which the district court overruled as untimely. Simmons's appeal from this order proceeds in No. 25-1646. Simmons appeals the district court's separate order setting forth the mechanics of the filing injunction in No. 25-1648.

Simmons received two extensions of time to file her brief. When Simmons did not file a brief by the December 3, 2025 deadline, the clerk dismissed the appeals for want of prosecution on December 26. Although Simmons moved to extend the briefing deadline in early January 2026, the clerk returned the document unfiled in light of the dismissal and advised that a motion to reinstate was required. She now seeks reinstatement, which both defendants oppose.

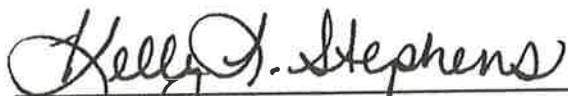
Reinstatement of an appeal is within the sound discretion of the court. *Rector v. Alcorn*, 204 F. 748, 750 (5th Cir. 1913). Historically, we have routinely reinstated cases dismissed for want of prosecution, regardless of any opposition to the motion or the length of delay in seeking reinstatement, provided that the deficiency is corrected when reinstatement is sought. *See, e.g., Davis v. United States*, 168 F.3d 489, *1 (6th Cir. 1998) (unpublished table decision) (“[T]his appeal recently was reinstated to this court’s docket nearly two years after it was dismissed for want of prosecution for plaintiff’s failure to pay the appellate filing fee.”); *see also Rucker v. U.S. Dep’t of Lab.*, 798 F.2d 891, 892 (6th Cir. 1986) (discussing an appeal that was reinstated after the defect that lead to dismissal—failing to return required forms—was cured).

default in the interests of justice,” *Thomas v. Arn*, 474 U.S. 140, 155 (1985), but Simmons has not shown that the interests of justice so warrant here. Thus, Simmons’s appeals in Nos. 25-1643 and 25-1646 are waived, and we decline to reinstate them.

In No. 25-1648, Simmons appeals the district court’s separate order setting forth the mechanics of the filing injunction, which are the exact mechanics recommended by the magistrate judge. Because the order was predicated on “the reasons set forth” in the report and recommendation—to which Simmons did not object—appellate review may (much like her other appeals) be barred by *Walters*. Nor does Simmons’s motion provide any “exceptional circumstances” to excuse her default. *Floyd v. Magill*, 50 F. App’x 715, 716 (6th Cir. 2002); *cf. Thomas*, 474 U.S. at 155. Further, the magistrate judge’s report and recommendation outlines Simmons’s history as a “prolific filer of frivolous lawsuits” and convincingly explains why this filing injunction is warranted. April 4, 2025 R&R, R.127 at PageID 2609-14 (recounting over a dozen of Simmons’s meritless, repetitious lawsuits, many of which she failed to prosecute). The district court’s imposition of this reasonable restriction strikes a proper balance, preserving Simmons’s ability to file meritorious lawsuits (by obtaining leave of court) while preventing further frivolous actions. The interests of justice are not offended, so we will not excuse Simmons’s default.

For these reasons, we DENY her motion to reinstate Nos. 25-1643, 1646, and 1648.

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 07/28/2026.

Case Name: Latausha Simmons v. City of Warren, MI, et al

Case Number: 25-1643

Docket Text:

ORDER filed: We DENY her motion to reinstate [7506391-2] Nos. 25-1643, 1646, and 1648. R. Guy Cole, Jr., Circuit Judge; David W. McKeague, Circuit Judge and Rachel Bloomekatz, Circuit Judge. [25-1643, 25-1646, 25-1648]

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

Document Description: Order

Notice will be sent to:

Ms. Latausha Simmons
20500 Dean Street
Detroit, MI 48234

A copy of this notice will be issued to:

Ms. Raechel M. Badalamenti
Ms. Kinikia D. Essix
Mr. Robert S. Gazall
Mr. Ryan Matthew Lanxton
Ms. Elizabeth Patricia Morris