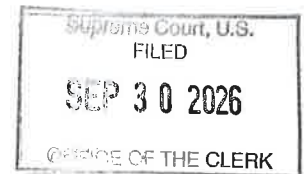


26A530
IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 2026



SHERIF ANTOUN PHILIPS, M.D., Applicant,

v.

**PITT COUNTY MEMORIAL HOSPITAL, INC.; DAVID CREECH; JAY SALSMAN;
MICHAEL BERMAN; DANIEL BERMAN, Respondents.**

**EMERGENCY APPLICATION FOR STAY AND NARROWLY TAILORED INJUNCTIVE
RELIEF PENDING DISPOSITION OF PETITION FOR WRIT OF CERTIORARI**

To the Honorable Chief Justice of the United States, as Circuit Justice for the Fourth Circuit

Applicant Sherif Antoun Philips, M.D., proceeding pro se, respectfully applies under Supreme Court Rules 22 and 23, 28 U.S.C. §§ 1651(a) and 2101(f), for interim relief preserving this Court's ability to consider his petition for a writ of certiorari from Fourth Circuit No. 26-1662.

RELIEF REQUESTED

Applicant requests a stay of the Fourth Circuit judgment and mandate in No. 26-1662 pending disposition of the accompanying petition for writ of certiorari. To the extent necessary to preserve this Court's jurisdiction and prevent irreparable consequences directly traceable to the judgment under review, Applicant alternatively requests narrowly tailored interim relief. Applicant does not ask this Court, through this application, to adjudicate the validity of separate Guam enforcement orders that are not themselves the judgment under review in No. 26-1662.

DECISIONS BELOW

The Western District of North Carolina dismissed Applicant's civil action for improper venue and declined transfer under 28 U.S.C. § 1406(a). The Fourth Circuit affirmed on August 25, 2026, and denied Applicant's request for an injunction and stay. Applicant timely sought panel rehearing and rehearing en banc. On September 29, 2026, the Fourth Circuit denied both forms of rehearing. In related mandamus No. 26-1660, the Fourth Circuit denied extraordinary relief on August 25, 2026 and denied rehearing and rehearing en banc on September 9, 2026.

PRIOR REQUEST FOR RELIEF BELOW

Supreme Court Rule 23.3 ordinarily requires an applicant to seek relief first in the appropriate court below. Applicant did so in the Fourth Circuit in No. 26-1662. The Fourth Circuit's August 25, 2026 disposition expressly denied Applicant's motion for an injunction and stay of enforcement. The related mandamus proceeding likewise included a request for an injunction and stay, which the Fourth Circuit denied. Copies of the pertinent orders should accompany this application.

STATEMENT

The case under review ended at a threshold stage. The district court concluded that venue was improper in the Western District of North Carolina. It did not adjudicate the substantive claims. Although 28 U.S.C. § 1406(a) authorized transfer to a district in which the action could have been brought, the district court declined transfer in substantial part because courts connected to the controversy had entered prefiling review orders against Applicant.

Applicant's certiorari petition presents the narrower question whether the existence of a transferee court's own prefiling review order may supply the reason to terminate an improperly venued action rather than transfer it to that court so that the issuing court can apply its own gatekeeping procedure. Applicant does not contend that transfer would nullify or evade any valid prefiling order.

Applicant also faces ongoing financial consequences in separate enforcement proceedings, including recurring payment obligations and other collection activity. Those circumstances are offered to explain the urgency and claimed irreparable harm. Applicant recognizes, however, that the separate Guam enforcement orders are not automatically stayed by a stay of the Fourth Circuit judgment in No. 26-1662. Any broader injunction must rest on an independent and demonstrated connection to this Court's jurisdiction and authority.

ARGUMENT

I. THERE IS A REASONABLE PROBABILITY THAT THE COURT WILL CONSIDER THE SECTION 1406(A) QUESTION WORTHY OF REVIEW.

The petition presents a discrete federal procedural question. In *Goldlawr, Inc. v. Heiman*, 369 U.S. 463 (1962), this Court construed § 1406(a) in light of Congress's purpose to remove procedural obstacles that impede orderly adjudication on the merits. The district court here found venue improper, identified forums connected to the dispute, and nevertheless dismissed rather than transfer because of prefiling restrictions in those forums. The petition asks whether the issuing transferee court should instead be allowed to administer its own gatekeeping order.

Applicant acknowledges that § 1406(a) does not make transfer mandatory in every improperly venued case. The question is whether the reason given for declining transfer is consistent with the statute's interest-of-justice framework and *Goldlawr*'s remedial construction.

II. APPLICANT ASSERTS IRREPARABLE HARM ABSENT INTERIM RELIEF, BUT THE REQUESTED STAY MUST REMAIN TIED TO THE JUDGMENT UNDER REVIEW.

Applicant asserts continuing and substantial financial injury from ongoing enforcement activity. Recurring monetary payments and collection measures may impose serious practical hardship. At the same time, ordinary monetary injury is generally reparable, and the judgment under review in No. 26-1662 is the dismissal/refusal-to-transfer judgment, not the separate Guam enforcement judgment. For that reason, Applicant requests only relief within this Court's authority that is necessary to preserve meaningful review of No. 26-1662.

If the Court determines that a stay of the Fourth Circuit mandate is sufficient, Applicant requests that relief. If additional interim relief is necessary to prevent the certiorari proceeding from becoming ineffectual, Applicant respectfully requests only such narrowly tailored relief as the Court determines is authorized.

III. THE EQUITIES FAVOR PRESERVATION OF THE COURT'S ABILITY TO REVIEW THE TRANSFER QUESTION.

A temporary stay would preserve the procedural status quo while the Court considers the certiorari petition. It would not adjudicate the merits of Applicant's underlying allegations, invalidate any prefiling order, or determine the ultimate enforceability of the North Carolina judgment. Respondents retain all defenses if the case is ultimately transferred or remanded for reconsideration of transfer.

CONCLUSION

Applicant respectfully requests that the Chief Justice stay the Fourth Circuit judgment and mandate in No. 26-1662 pending disposition of the accompanying petition for writ of certiorari and, if necessary and authorized, grant narrowly tailored interim relief sufficient to preserve this Court's jurisdiction and the effectiveness of any eventual judgment.

Respectfully submitted,



Sherif Antoun Philips, M.D.

Applicant Pro Se

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Upper Tumon, GU 96913

Telephone: (671)689-7611

Email sherifap@aol.com

Date: September 29, 2026

APPENDIX CHECKLIST

Appendix A -

Fourth Circuit opinion in No. 26-1662, August 25, 2026.

UNPUBLISHED**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 26-1662

SHERIF ANTOUN PHILIPS,**Plaintiff - Appellant,****v.****PITT COUNTY MEMORIAL HOSPITAL, INC.; DAVID CREECH; JAY
SALSMAN; MICHAEL BERMAN; DANIEL BERMAN,****Defendants - Appellees.**

**Appeal from the United States District Court for the Western District of North Carolina, at
Charlotte. Matthew E. Orso, District Judge. (3:26-cv-00128-MEO-WCM)**

Submitted: August 20, 2026**Decided: August 25, 2026**

Before AGEE and RUSHING, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

**Sherif Philips, Appellant Pro Se. Christina J. Banfield, W. Gregory Merritt, HARRIS,
CREECH, WARD & BLACKERBY, P.A., New Bern, North Carolina, for Appellees.**

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Sherif Antoun Philips appeals the district court's order dismissing his civil complaint for improper venue and declining to transfer the case in the interest of justice. He also moves for an injunction and stay of enforcement. We have reviewed the record and discern no reversible error. Accordingly, we deny Philips's motion for an injunction and stay of enforcement and affirm the district court's order. *Philips v. Pitt Cnty. Mem'l Hosp., Inc.*, No. 3:26-cv-00128-MEO-WCM (W.D.N.C. May 19, 2026). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

Appendix B -

Fourth Circuit order denying rehearing and rehearing en banc in No. 26-1662, September 29, 2026.

FILED: August 25, 2026

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 26-1662
(3:26-cv-00128-MEO-WCM)

SHERIF ANTOUN PHILIPS

Plaintiff - Appellant

v.

PITT COUNTY MEMORIAL HOSPITAL, INC.; DAVID CREECH; JAY
SALSMAN; MICHAEL BERMAN; DANIEL BERMAN

Defendants - Appellees

J U D G M E N T

In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ NWAMAKA ANOWI, CLERK

Appendix C -

Western District of North Carolina order dismissing for improper venue and declining transfer.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:26-CV-00128-MEO-WCM

SHERIF ANTOUN PHILIPS,

Plaintiff,

v.

PITT COUNTY MEMORIAL
HOSPITAL, INC., et al.

Defendants.

MEMORANDUM & ORDER

THIS MATTER is before the Court on Defendants' Motion to Dismiss and For Prefiling Injunction (Doc. No. 18). For the reasons explained below, the Court will grant Defendants' Motion to Dismiss. Plaintiff is further cautioned against filing additional frivolous or improper actions in this District.

I. BACKGROUND

This action is *pro se* Plaintiff's ninth lawsuit arising out of the suspension and revocation of his medical staff privileges at Pitt County Memorial Hospital, Inc. and subsequent related litigation.¹ (Doc. No. 19 at 3–10). In this case, Plaintiff purports to bring claims against Defendants Pitt County Memorial Hospital, Inc., David Creech, Jay Salsman, Michael Berman, and Daniel Berman based on alleged violations of the Fair Debt Collection Practices Act, the Equal Access to Justice Act, the U.S. Constitution, and 42 U.S.C. § 1983. (Doc. No. 1 at 1). Among other things,

¹ The Court will refer to relevant portions of the procedural history. Defendants' memorandum in support of their motion provides a more complete procedural history. *See* (Doc. No. 19 at 3–10).

Plaintiff appears to be seeking reconsideration of various rulings by state and other federal courts. *Id.* at 2–11. Plaintiff's Complaint is silent as to venue. Concerning jurisdiction, the Complaint states:

The Eastern District Court of North Carolina botched the the [sic] plaintiff's claims before And [sic] even the plaintiff was forbidden to file any claims over there. All of [sic] the plaintiff is asking for a fair trial and to follow the law as prescribe [sic]. So plaintiff is seeking the Western District Court of NC away from the friendly neighborhood court where failure to state a claim (Rule 12), Statue of limitations, and lack of Jurisdiction pertained only to the defendants[.]

(Doc. No. 1 at 2).

Plaintiff's allegations focus on events occurring in Guam and the Eastern District of North Carolina. *Id.* at 2–10. The Complaint does not mention any events occurring in this District nor does it allege that Plaintiff or any Defendant resides here. *Id.* Rather, based on the summons, the individual Defendants reside in either Guam or the Eastern District of North Carolina, and Defendant Hospital is located in the Eastern District of North Carolina. (Doc. No. 3). In his Complaint, Plaintiff further alleges that his "state of domicile is Florida." (Doc. No. 1 at 2).²

Plaintiff concludes his Complaint by stating:

Guam Courts botch [sic] plaintiff's claims where the plaintiff was treated in discriminatory matter as ProSe and breaching his constitutional right for fair trial and was named vexatious litigant without evidence. Even the Guam Courts acted without jurisdiction over the plaintiff's complaint honored the local lawyer's transgression and looting & garnishing the plaintiff's money, modifying the core of plaintiff's claim against the local lawyer and the plaintiff's claim was denied due to lack of juristiction [sic].

² Plaintiff lists a Guamanian return address on the summons. *See* (Doc. No. 3).

Also, enforce Rule 21 to transfer the plaintiff's claim out of the Guam Courts for the interest of justice. Follow the law as prescribed and stop the creativity and lawyer gimmicks

...

(Doc. No. 1 at 11).

II. DISCUSSION

Defendants move to dismiss the Complaint for improper venue. (Doc. No. 19–22).³ In his opposition, Plaintiff does not respond to Defendants' argument regarding venue. *See* (Doc. Nos. 23 & 24).

Under Rule 12(b)(3) of the Federal Rules of Civil Procedure, a court may dismiss a case for improper venue. Fed. R. Civ. P. 12(b)(3). Further, 28 U.S.C. § 1406(a) provides that when venue is improper, the district court “shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.” 28 U.S.C. § 1406(a).

“When venue is challenged, the court must determine whether the case falls within one of the three categories set out in § 1391(b).” *Atl. Marine Const. Co. v. U.S. Dist. Ct. for W. Dist. of Tex.*, 571 U.S. 49, 56 (2013). Specifically, 28 U.S.C. § 1391(b) provides:

A civil action may be brought in—

- (1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located;
- (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a

³ Because the Court grants Defendants' motion to dismiss for improper venue, the Court does not reach Defendants' other arguments regarding dismissal.

substantial part of property that is the subject of the action is situated; or

(3) if there is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action.

If the case falls into one of those three categories, “venue is proper; if it does not, venue is improper, and the case must be dismissed or transferred under § 1406(a).” *Atl. Marine Const. Co.*, 571 U.S. at 56. “[T]he plaintiff bears the burden of showing that venue is proper.” *Hagins v. Myers*, No. 3:25-CV-00538-KDB-SCR, 2025 WL 2480132, at *1 (W.D.N.C. Aug. 13, 2025).

In this case, the individual Defendants reside outside of this District, and Defendant Hospital is located in the Eastern District of North Carolina. There is also no evidence—or even allegation—otherwise showing a connection or affiliation of the Hospital to the Western District of North Carolina.⁴ Further, this action arises out of events that occurred in the District of Guam and the Eastern District of North Carolina, and Plaintiff does not allege any events occurring in the Western District of North Carolina. Therefore, under § 1391(b), venue is improper in this District.

Because venue is improper, the Court must either dismiss the case or “if it be in the interest of justice” transfer the case to a district in which the case could have been brought. 28 U.S.C. § 1406(a). “When venue would be proper in another district under § 1391, transfer is preferred over dismissal unless there is evidence that a case

⁴ Entities are deemed to reside “in any judicial district in which such defendant is subject to the court's personal jurisdiction with respect to the civil action in question.” 28 U.S.C. § 1391(c)(2).

was brought in an improper venue in bad faith or in an effort to harass a defendant.” *Hagins*, 2025 WL 2480132, at *1. Here, the allegations in Plaintiff’s Complaint occurred in District of Guam and the Eastern District of North Carolina. However, the Court notes the United States District Courts for the District of Guam and the Eastern District of North Carolina have already entered prefiling injunctions against Plaintiff in related cases. *See* Order Re Pre-Filing Procedure for Vexatious Litigant, *Philips v. Pitt Cnty. Mem’l Hosp. Inc., et al.*, No. 23-00025 (D. Guam Dec. 17, 2024), (Doc. No. 44); Order of Prefiling Injunction, *Philips v. Pitt Cnty. Mem’l Hosp. Inc., et al.*, No. 4:24-cv-98 (E.D.N.C. Oct. 21, 2024), (Doc. No. 56). In light of those orders, the Court finds the interest of justice does not require this matter to be transferred, and this case will be dismissed.

Further, Plaintiff is strongly **CAUTIONED** against filing additional frivolous or improper actions in this District. Doing so may result in the imposition of **sanctions** and/or **prefiling injunctions** that would limit Plaintiff’s ability to file further lawsuits in this Court.

III. CONCLUSION

IT IS, THEREFORE, ORDERED that:

1. Plaintiff’s Complaint (Doc. No. 1) is **DISMISSED**;
2. All remaining motions (Doc Nos. 4, 5, 7, 10, 13, 14, 17, 23, 24, 25, 30, 31, 32, & 33) are **DENIED as MOOT**; and
3. Plaintiff is strongly **CAUTIONED** against filing additional frivolous or improper actions. Doing so may result in the imposition of sanctions

and/or prefiling injunctions that would limit Plaintiff's ability to file further lawsuits in this Court; and

4. The Clerk is directed to close this case.

SO ORDERED.

Signed: May 18, 2026

A handwritten signature in black ink, appearing to read 'Matthew E. Orso', written over a horizontal line.

Matthew E. Orso
United States District Judge



Appendix D -

Fourth Circuit opinion denying related mandamus No. 26-1660, August 25, 2026.

UNPUBLISHED**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 26-1660

In re: SHERIF ANTOUN PHILIPS,

Petitioner.

On Petition for Writ of Mandamus to the Western District of North Carolina at Charlotte.
(3:26-cv-00128-MEO-WCM)

Submitted: August 20, 2026

Decided: August 25, 2026

Before AGEE and RUSHING, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Petition denied by unpublished per curiam opinion.

Sherif Philips, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Sherif Antoun Philips petitions for a writ of mandamus seeking an order staying the enforcement of monetary sanctions awarded against him for repetitive litigation against Defendants in connection with an employment dispute that arose in 2005. He also moves for an injunction and stay of enforcement.

Mandamus is a drastic remedy and should be used only in extraordinary circumstances. *Cheney v. U.S. Dist. Ct.*, 542 U.S. 367, 380 (2004); *In re Murphy-Brown, LLC*, 907 F.3d 788, 795 (4th Cir. 2018). Further, mandamus relief is available only when the petitioner has a clear right to the relief sought and “has no other adequate means to attain the relief [he] desires.” *Murphy-Brown*, 907 F.3d at 795 (citation modified).

We conclude that the petitioner is not entitled to mandamus relief. Accordingly, we deny his motion for an injunction and stay of enforcement and deny his mandamus petitions. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

PETITION DENIED

Appendix E -

Fourth Circuit order denying rehearing and rehearing en banc in No. 26-1660, September 9, 2026.

FILED: September 9, 2026

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 26-1660
(3:26-cv-00128-MEO-WCM)

In re: SHERIF ANTOUN PHILIPS

Petitioner

O R D E R

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 40 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge Agee, Judge Rushing, and Senior Judge Traxler.

For the Court

/s/ Nwamaka Anowi, Clerk

PROOF OF SERVICE

I, Sherif Antoun Philips, M.D., declare that on September 29, 2026, I served a true and correct copy of this Emergency Application and its appendix upon all counsel of record for Respondents by a method permitted by Supreme Court Rule 29.

Counsel and current service addresses: /s/Christina J Banfield

325 Pollock Street

New Bern, N.C 28563

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

Executed on September 29 , 2026.

A handwritten signature in black ink, appearing to be 'S. Philips', written over the date line.

Sherif Antoun Philips, M.D.