No. 24-275

In the
Supreme Court of the United States

DONTE PARRISH,
Petitioner,

v.

UNITED STATES,
Respondent.

On Writ of Certiorari to the
United States Court of Appeals for the Fourth Circuit

BRIEF AMICUS CURIAE OF THE UNIVERSITY OF ILLINOIS CHICAGO SCHOOL OF LAW—PRO BONO LITIGATION CLINIC IN SUPPORT OF PETITIONER

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TABLE OF CONTENTS

Page

TABLES OF CONTENTS—Continued

TABLE OF AUTHORITIES

INTEREST OF *AMICUS CURIAE*[1]

The University of Illinois Chicago School of Law Community Clinic is a large in-house law office that covers various areas of law and provides free legal representation to the underserved and vulnerable individuals. The Pro Bono Litigation Clinic ("Clinic") is a community legal clinic that represents individuals in federal and state courts in both criminal and civil matters. The Clinic is dedicated to public service and advocates for the rights of the underserved. Under the supervision of its Director, J. Damian Ortiz, second and third-year Juris Doctor candidates assist clients who otherwise lack access to legal representation. The Clinic represents incarcerated individuals in federal and state prisons for both criminal and civil cases.

In *Parrish v. United States*, the United States Circuit Court of Appeals for the Fourth Circuit held that a pro se incarcerated prospective appellant must file a duplicative notice of appeal when the appeal period is reopened, and that the initial notice of appeal before the window was reopened is not validated upon a motion to reopen the appeal window. *Parrish v. United States*, 74 F.4th 160, 165-66 (4th Cir. 2023). The Fourth Circuit's decision unfairly impacts pro se and incarcerated litigants because its interpretation is not only sua sponte but relies on linguistic semantics and disregards precedent. Pro se and incarcerated litigants are underserved and vulnerable

[1] Pursuant to Rule 37.6, *amicus* affirms that no counsel for a party authored this brief in whole or in part and that no person other than *amicus*, its members, or its counsel made a monetary contribution to its preparation or submission.

groups. The Clinic is committed to safeguarding the rights of these vulnerable groups. The Clinic directly engages with incarcerated individuals, and if the Fourth Circuit's decision is upheld, it will negatively affect many incarcerated clients by limiting their ability to appeal due to circumstances beyond their control, including various prison administrative and mail policies that hinder their timely participation. This Amicus aims to provide the Court with practical insights from the Clinic's experience and work with incarcerated clients to demonstrate why the Fourth Circuit erred in dismissing Petitioner's case for lack of jurisdiction.

SUMMARY OF THE ARGUMENT

The Clinic's experience with administrative and communication delays in our work with incarcerated clients supports Petitioner's position.

First, prison administrative protocols and mail delays prevent incarcerated litigants, especially pro se, from receiving timely notice. Mail screening processing procedures delay inmates' timely receipt of legal mail. Individual correctional officer discretion delays inmates' timely receipt of legal mail. Facility transfers delay the timely receipt of legal mail. Addressing requirements delays inmates' timely receipt of legal mail.

Second, as a matter of public policy, the Fourth Circuit's decision and strict interpretation of pro se filings compromise inmates' ability to participate in their own cases. A redundant second notice requirement based on linguistic semantics discourages the public from their right to seek redress from the government and specifically targets pro se

incarcerated litigants. Additionally, a duplicative second notice of appeal unnecessarily burdens court dockets. The Fourth Circuit's decision is sua sponte, yet it limits court access and undermines the adversarial judicial process.

ARGUMENT

THE CLINIC'S EXPERIENCE WITH ADMINISTRATIVE AND COMMUNICATION DELAYS WITH INCARCERATED CLIENTS SUPPORTS PETITIONER'S POSITION

A. Prison Administrative Protocols and Notice Delays Prevent Incarcerated Litigants, Especially Pro Se, From Receiving Timely Notice.

The Federal Bureau of Prisons (BOP) and the Illinois Department of Corrections (IDOC) implement various policies and procedures that hinder communication to and from incarcerated litigants. In the Clinic's work, these policies and procedures, which include mail screening, prisoner transfers, and mail addressing requirements, affect timely communication and notice receipt to our clients. Consequently, incarcerated clients do not receive timely communication.

1. Screening Procedures

Prison legal mail screening procedures create legal mail receipt delays, which prevent timely litigation participation. Inmate increases coupled with staffing shortages to perform screenings create mail delays. Additionally, mail personnel exercise

arbitrary individual discretion, which creates mail delays.

Federal and Illinois corrections procedures require multiple screening and processing stages for incoming and outgoing mail. 28 C.F.R. § 540(b); Ill. Admin. Code tit. 20 § 701.180. Legal mail is from or to attorneys and courts. 28 C.F.R. § 540.19; Ill. Admin. Code tit. 20 § 701.180(e). The sender must mark the outside of the envelope as "legal mail;" otherwise, the prison treats it as general mail. 28 CFR § 540.19(a), (e); Ill. Admin. Code tit. 20 § 701.180(e), (f). General mail is any mail other than special, privileged, or legal mail. 28 C.F.R. § 540.19; Ill. Admin. Code tit. 20 § 701.180(b), (c). Prisons may open and read general mail.

Legal mail, treated as special mail, requires different screening procedures than general mail. Procedures require wardens to open and screen legal mail in front of the inmate. Wardens cannot read legal mail's substantive content. The Mail Management Manual ("Manual") instructs the BOP not to delay mail delivery and to strive to deliver mail within 24 hours of receipt. U.S. Dep't of Justice, Fed. Bureau of Prisons, *Program Statement 5800.100*, U.S. Dep't of Justice, (April 5, 2011); Fed. Bureau of Prisons, *Mail Management Manual*, Program Statement 5800.16 (Aug. 19, 1998), https://www.bop.gov/policy/progstat/5800_016.pdf.;, U.S. Dep't of Justice, Office of the Inspector General, *Federal Bureau of Prisons' Drug Interdiction Activities*, Report No. I-2003-002 (2003), available at https://oig.justice.gov/reports/BOP/e0302/index.htm. However, a warden's ability to screen and open

legal mail in front of inmates is impossible, especially considering the depth of their other responsibilities. While policies authorize wardens to delegate screening, officers must also manage a wide range of duties with limited time. Additionally, a significant number of inmates send and receive legal mail every day. Furthermore, a substantial number of inmates send and receive legal mail daily.

As a result, screenings are backed up. Federal facilities house an average of 818 inmates, and the average inmate-to-officer ratio is 9.85:1. Bureau of Justice Statistics, *Federal Prisoner Statistics Collected Under the First Step Act, 2024*, U.S. Dep't of Justice, NCJ 309537 (Dec. 2024), https://bjs.ojp.gov/document/fpscufsa24.pdf. Individually screening and opening each piece of legal mail in front of each inmate-recipient is extremely challenging due to the volume of incoming mail, the number of inmates, and staffing shortages, especially within the 24 hours the Manual prescribes.

Currently, legal mail screening in Illinois state prisons is delayed. Clients at the Clinic have not received letters sent weeks ago. Client A shared that legal mail is delayed by three weeks. Telephone interview with Mr. Fernandez, (Feb. 18, 2025).

Client B expressed concerns over three letters that he believed the Clinic ignored his update request. However, records show that the Clinic responded to the first letter contemporaneously, but Client B did not receive the letter because of mailing delays. Additionally, at least 20 clients experienced delays of 30 days or longer between the letter postmark and the Clinic's receipt.

To verify legal mail delays, the Clinic sent 241 letters to incarcerated clients in both federal and Illinois correctional institutions on February 12, 2025. The University's mail department was dispatched on February 13, 2025. On February 26, 2025, our Clinic received 11 returned letters. Four letters clearly noted the facility returned the letter because the client was paroled. Three letters noted that the clients were either paroled or discharged. These letters did not specify which, and discharge can also mean transferred to another facility. Two letters noted "PAR." Using intelligent inferences, PAR seems to represent paroled. However, PAR may be an officer's initials or an internal acronym. The notation is ambiguous and requires inference. One letter noted that the facility returned our letter because the name and ID were incorrect.

As of March 3, 2025, the Clinic received one mailed response from our clients. Client C communicated that IDOC delivers legal mail at IDOC's convenience, and delays range an average of 10 to 20 days after arrival at the facility. He also shared that providing evidence of receipt is impossible because IDOC no longer provides inmates with a copy of their signed legal mail receipt.

Alternatively, some clients reached out through third parties to contact and share their experiences. Client D's wife called the Clinic on February 24, 2025, to inform us that he received our letter. Telephone interview with Beal-Smith (Feb. 24, 2025). Client D's letter is postmarked on February 13, 2025. *Id.* A sergeant delivered the letter on February 22, 2025. *Id.* Client D asked his wife to call us instead of him

sending the Clinic a letter because incoming and outgoing legal mail screening is delayed weeks. *Id.* Client D shared that delays are not new and have persisted throughout his entire incarceration. *Id.*

Client E requested his mother contact our Clinic to follow up on his intake inquiry. Telephone interview with Ms. Rice, (Feb. 24, 2025). He made this request because he has not received a response and wanted to ensure we received his letter. *Id.* Client E asked his mother to follow up with the Clinic as this has become a regular occurrence. *Id.* He indicated that it typically takes at least three weeks, or more, to receive his incoming letters, and that legal mail takes even longer. *Id.* The Clinic received his letter two weeks after he sent it. *Id.* A response was mailed to Client E in early February. *Id.* Client E's mother confirmed that in addition to not receiving our earlier response, Client E also had not received our delay verification letter sent to him on February 13, 2025. *Id.*

Additionally, prison mail personnel exercise personal discretion and act arbitrarily, which delays correspondence. Client F bought and traded food to obtain a specific envelope because he tried to send a legal letter with a self-made envelope when the facility denied him a second envelope. A facility officer returned Client F's letter and informed him that the facility secretary refused to mail it two days after Client F posted it to the facility's mail depository. Client F attempted to mail the legal letter again 3 days later. However, another officer informed Client F that the legal letter would not be mailed, and the facility secretary issued a memorandum instructing

personnel that Client F's legal letter could not be mailed. Client F requested a United States Postal Inspector. However, the facility refused to relay the request. Twelve days elapsed between Client F's first deposit with the facility mail department until the facility finally gave his letter to the United States Postal Service. Despite sending the legal letter to the Clinic in a compliant envelope, the facility refused to send the letter 3 times before it arrived at the Clinic.

While prisons do their best, sometimes their best measures still fail, especially when people miss critical deadlines. Ultimately, when mail screenings are backed up, inmates do not receive mail on a timely basis. When inmates do not receive mail timely, they cannot respond timely. When inmates do not timely respond, they can pay the ultimate consequence—dismissal.

Thus, legal mail screening protocols, mail personnel individual discretion, and inmate increases coupled with staffing shortages create mail delays that hinder timely participation in litigation.

2. Facility Transfers

Inmate facility transfers create mail delays that prevent timely mail receipt, which consequently disallows timely litigation participation. Incoming mail to the former facility may be returned to its sender. The inmates are responsible for informing their correspondents of their new mailing information, but they have limited resources and actual transfer times.

BOP staff shall use all means practicable to forward special mail. 28 C.F.R. § 540.25(e). IDOC staff shall forward mail if an offender has been transferred or released if the address is known. If no forwarding address is available, the mail shall be returned to the sender. 20 Ill. Adm. Code § 525.140(6).

However, in practice, facilities often do not forward mail to inmates in a timely manner after they are transferred. Despite policies intended to ensure that prisoners' mail is forwarded, our Clinic has found that facilities frequently return the mail to the sender instead of delivering it to the inmate at their new location. This practice prevents inmates from receiving timely notifications, which keeps them from meeting filing deadlines.

Further, inmates often do not know if and when they are transferred. Transfers may happen at any time of day or night, and depending on the distance, travel time may extend beyond a mere couple of hours. If the transfer crosses state lines or involves several states, the travel time could stretch over a few days. By the time the inmate reaches their new facility, it's unlikely that their new mail will be there waiting for them. Additionally, the inmate may not be able to notify both a court and their counsel, if they have one, about the change of address right away. In Illinois, prisons provide only one envelope per week. In this scenario, an inmate must decide who to notify first and in the subsequent weeks, including family. Moreover, any mail that was already delayed in processing at their previous facility faces further delays if the former facility managed to promptly forward the mail to the next, which is significant.

For example, a facility returned our letter to Client G and marked it non-deliverable because the facility discharged Client G. However, facility return stamps are unclear because a discharged stamp may also mean transferred. Tracking clients between facilities is difficult because there is a lag time between when their information is registered and uploaded with their new facility information on the IDOC website. If they are transferred to federal custody that lag time may even be longer. Until we find the new information, our Clinic is forced to wait and see until the information populates or our client makes contact. Therefore, transfer procedures hinder timely participation.

Ultimately, prison mail screening, facility transfers, and addressing requirements create delays that prevent incarcerated litigants, especially pro se, from receiving timely notice.

3. Addressing Requirements

Meeting addressing requirements causes mail delays that hinder timely receipt for participation. These requirements are strict and leave no room for human error. When errors occur, the mail is sent back to the sender, delaying the inmate's receipt until the issue is corrected and resented. Additionally, even when all addressing requirements are met, mail can still be returned with vague reasons or no explanation at all, leaving the sender uncertain about how to correct and resend it.

Federally, all envelopes must include the inmate's name, registration number, institution name, and address. 28 C.F.R. § 540.19. In Illinois, all envelopes

must contain the inmate's name, IDOC number, and address. 20 Ill. Admin. Code tit. § 701.180. Furthermore, legal mail may only consist of communications from the legal correspondent whose name and address are present on the envelope. 20 Ill. Adm. Code § 525.140.

In the event of human error, when the envelope does not contain the inmate's ID number despite all other information being included, the mail is returned, which delays timely receipt. Due to the unfortunate instance of human error, inmates do not receive their mail even if it is marked as legal mail, which should convey the correspondence's time sensitivity. Further, human error is possible. When the sender's representative—such as a student in a pro bono clinic or a staff member in a court—is a new hire, remembering all the rules is difficult, and what some would think are small errors are actually incurable. Without opening it or even screening the mail with the prisoner, the mail is not processed and returned to the sender. Consequently, if an error is made in the address, the name, or the inmate's number, the mail will not be processed or delivered to the inmate.

However, mail is sometimes returned without explanation despite compliance with all the addressing requirements and the client still being in the same facility. IDOC returned Client H's letter without explanation. The Clinic properly included Client H's name, IDOC number, and address in addition to the Clinic's name and address and noted "LEGAL MAIL" on the envelope's face.

It is important for counsel to understand why our letters do not reach our clients. However, that appears to be a luxury. It is even more important that our clients receive our communications and any other communications they may receive from the courts. Despite the sender meeting all the addressing requirements, the prisoner may not receive their mail.

Therefore, addressing requirements hinders timely participation because the stringency leaves no room for human error and cannot be cured without returning the sender and the sender sending the mail again.

B. As A Matter of Public Policy, The Fourth Circuit's Decision And Strict Interpretation of Pro Se Filings Compromise Inmates' Ability To Participate In Their Own Case.

The Fourth Circuit's decision unfairly impacts pro se and incarcerated litigants because its interpretation is not only sua sponte but relies on linguistic semantics and disregards precedent. Pro se and incarcerated litigants are underserved and vulnerable groups. If the Fourth Circuit's decision is upheld, it will negatively affect many incarcerated clients by limiting their ability to appeal due to circumstances beyond their control, including various prison administrative and mail policies that hinder their timely participation.

1. Duplicative appeal notice discourages public trust and targets pro se and incarcerated inmates.

Duplicative appeal notices are bad law because they discourage public trust and target pro se and incarcerated inmates. First, pro se and incarcerated litigants experience barriers that other litigants do not experience. Second, duplicative notices create additional administrative and financial burdens on litigants, particularly incarcerated and pro se litigants who are vulnerable and already resource scarce.

Incarcerated litigants experience unique barriers to accessing courts that other litigants do not encounter solely because they are incarcerated. Andrew Pei, *Self-Represented Litigants and the Pro Se Crisis*, Cornell J.L. & Pub. Pol'y, The Issue Spotter (Nov. 4, 2023), https://live-journal-of-law-and-public-policy.pantheonsite.io/self-represented-litigants-and-the-pro-se-crisis. Incarcerated litigants are wards of the government detaining them, the state or federal government, and since their liberty is restricted, communicating with counsel or researching their cases is regulated compared to nonincarcerated litigants. *DeShaney v. Winnebago County Dept. of Social Services*, 489 U.S. 189, 199-201 (1989). Depending on the individual facility policies, some facilities in Illinois only provide one envelope a week to prisoners. 20 Ill. Adm. Code tit. § 701.180(c). Additionally, prisoners cannot request legal calls directly to their facility; they must first request legal calls with their counsel. 28 C.F.R. § 540.103. If they have already used their envelope and do not have

funds or food to trade for more, they must wait a whole week to receive another one. 20 Ill. Adm. Code tit. § 701.180(c). Once counsel receives their letter, which is likely anywhere from one to three weeks later, counsel contacts the facility to request to schedule a call, and availability is limited. Sometimes, these calls are scheduled two to three weeks later. Legal calls are limited to 30 minutes. Illinois Department of Corrections, *Attorney FAQ*, https://idoc.illinois.gov/aboutus/attorneyfaq.html (last accessed Mar. 1, 2025). It is very difficult to ensure everything that needs to be discussed by both parties fits within the confines of 30 minutes.

Critics contend that these barriers arise as a consequence of their own actions. However, this rationale should not rubberstamp diminished access. This is particularly true since our justice system seeks reform. Incarcerated persons, despite their circumstances, are entitled to dignity.

Pro se litigants face challenges in accessing and navigating courts that are not typically encountered by represented litigants. Andrew Pei, *Self-Represented Litigants and the Pro Se Crisis*, Cornell J.L. & Pub. Pol'y, The Issue Spotter (Nov. 4, 2023), https://live-journal-of-law-and-public-policy.pantheonsite.io/self-represented-litigants-and-the-pro-se-crisis/. While deciding pro se representation is an option, especially in criminal cases, it is a decision made with considerable thought and potential repercussions. Cameron Marks, *Ignorance is No Defense: The Inherent Disadvantages of Proceeding Pro Se*, Penn St. L. Rev.: F. Blog (Mar. 28, 2023),

https://www.pennstatelawreview.org/the-forum/ignorance-is-no-defense-the-inherent-disadvantages-of-proceeding-pro-se/.

Pro se litigants largely make up our most vulnerable populations because they often cannot afford representation but still need help. United States Courts, *Just the Facts: Trends in Pro Se Civil Litigation*, 2000-2009, (Feb. 11, 2021). A significant number of prisoner petitions are filed pro se. Admin. Office of the U.S. Courts, *Just the Facts: Trends in Pro Se Civil Litigation, 2000-2019*, U.S. Courts (Feb. 11, 2021), https://www.uscourts.gov/data-news/judiciary-news/2021/02/11/just-facts-trends-pro-se-civil-litigation-2000-2019#:~:text=The%20majority%20of%20prisoner%20petitions,defendants%20who%20were%20self%2Drepresented. Family law, housing, and consumer courts also see high percentages of pro se litigants. Self-Represented Litigation Network, *About SRLN* (last accessed Mar. 1, 2025). The highest rates of pro se representation are among civil rights. Mark D. Gough & Emily S. Taylor Poppe, *(Un)Changing Rates of Pro Se Litigation in Federal Court*, 45 Law & Soc. Inquiry 567, 751 (2020), https://www.cambridge.org/core/journals/law-and-social-inquiry/article/unchanging-rates-of-pro-se-litigation-in-federal-court/21434F32D9DB2AC89C42433F926CBFAC. Only 0.5 percent of pro se plaintiffs reach trial compared to 1.3 percent of represented parties. *Id.* at 580.

Access also requires procedural knowledge to not only get your foot in the door but to keep it there.

Andrew Pei, *Self-Represented Litigants and the Pro Se Crisis*, Cornell J.L. & Pub. Pol'y, The Issue Spotter (Nov. 4, 2023), https://live-journal-of-law-and-public-policy.pantheonsite.io/self-represented-litigants-and-the-pro-se-crisis/. Managing the different procedural rules requires baseline expertise. *Id.* This profession requires at least three years of dedicated legal studies, a licensing exam, and a license that requires continued legal education. National Conference of Bar Examiners & the American Bar Association, *Comprehensive Guide to Bar Admission Requirements*, 1-53, (Judith A Gundersen et al. eds., 2021. However, our Founding Fathers ensured that those who did not have these credentials or financial resources could still access our courts. The Judiciary Act of 1789 § 35, 28 U.S.C. § 1654. This is what sets the United States apart from the rest.

Pro se representation critics argue that pro se litigants burden the courts by delaying proceedings and requiring more assistance than represented litigants. Helen W. Gunnarrsson, *A judge's perspective on pro se litigants*, 99 Ill. B.J. 280, 280 (2011). However, courts often permit represented parties to amend filings multiple times before dismissal or guide counsel in the right direction. *Fikre v. FBI*, 601 U.S. 234, 237 (2024) (showing that the District Court of Oregon allowed the petitioner to amend his complaint seven times). Why is this practice viewed as a burden when a pro se litigant does the same? Court procedures are complex, and pro se litigants must prepare adequately, but navigating these rules and procedures remains difficult for counsel. Andrew Pei, *Self-Represented Litigants and*

the Pro Se Crisis, Cornell J.L. & Pub. Pol'y, The Issue Spotter (November 4, 2023), https://live-journal-of-law-and-public-policy.pantheonsite.io/self-represented-litigants-and-the-pro-se-crisis/. Nevertheless, pro se litigants should not be dismissed without receiving a fair chance. Here, Mr. Parrish did not fail to act; he filed a notice of appeal. *Parrish v. United States*, 74 F.4th 160, 162-63 (4th Cir. 2023). However, the Fourth Circuit focused not on whether he filed, which he did, but on when he filed. *Id.* The government was not concerned about when he filed his notice of appeal; only the Fourth Circuit was. *Id.*

Duplicative filings create unnecessary administrative and financial burdens to already resource scarce incarcerated and pro se litigants. Pro se litigants write and file their own filings. Victor D. Quintanilla, *Doing Unrepresented Status: The Social Construction and Production of Pro Se Persons*, 69 DePaul L. Rev. 543, 543-54, 568-79 (2020). Incarcerated litigants experience limitations in what supplies they receive, research times, and, if represented, communications with counsel. *Id.* at 568-73. A requirement to refile something that substantively meets the requirements targets these vulnerable and resource populations. *Id.* at 556-68. It is also very difficult to ignore which racial and ethnic groups largely compose our prisons. *Id.* at 579-82. It is also difficult to ignore which socioeconomic groups end up in prisons. *Id.* at 573-79.

Requiring incarcerated and pro se litigants to file duplicative notices closes the doors to justice for those who may need it most before any substantive arguments can even be argued. *Id.* at 543-47, 556-68.

If the average American who cannot afford legal representation for a civil wrong believes there is no point in accessing our courts to remedy their harm, then who does our system seek to serve? *Id.* at 568-73. Targeting vulnerable litigants, incarcerated and pro se individuals, by requiring duplicative filings to gain access to the courts fosters public distrust of our judicial system. *Id.* at 573-79. Public distrust of our courts and the legal system at large is clear, with every lawyer joking portraying lawyers as greedy and self-interested. *Id.* at 579-82. However, we need to trust our courts now more than ever. *Id.* at 582-86. Promoting public trust in our courts, in part, requires allowing common people to access the courts.

For the courts to work well, they require the public to trust them. When citizens trust courts, they are more likely to accept court authority, cooperate with legal processes, and respect court decisions. Colorado Judicial Institute, *Explainer: Why is the Public Trust in the Judicial System Important?* https://coloradojudicialinstitute.org/what-we-do/public-education/explainer-why-is-public-trust-in-the-judicial-system-important.html (last accessed Mar. 1, 2025). The ability of courts to perform their functions is based on the trust and confidence of the public. Courts gain this trust by faithfully performing their duties, adhering to ethical standards, and effectively carrying out their governance responsibilities. U.S. Courts, *Strategic Plan for the Federal Judiciary: Issue 2 – Preserving Public Trust, Confidence, and Understanding*, https://www.uscourts.gov/data-news/reports/strategic-planning/strategic-plan-federal-judiciary/issue-2-preserving-public-trust-

confidence-and-understanding (last accessed Mar. 1, 2025)

However, surveys have indicated that the public does not fully trust the judicial system. Further, the public does not trust that the courts will treat every person equally based on societal classifications. Institute for the Advancement of the American Legal System, *Public Trust and Confidence in the Legal System: The Way Forward*, https://iaals.du.edu/blog/public-trust-and-confidence-legal-system-way-forward (last accessed Mar. 1, 2025) The public's distrust in the judicial system has been caused by unmet legal needs and the high percentage of pro se parties in state court cases. *Id.* Lawyers and judges have failed the public by not allowing the court system to be accessible or affordable. *Id.* Therefore, to rebuild the public's trust, access to justice requires that individuals have access to understandable, accessible, and affordable legal and court services.

Therefore, the Fourth Circuit's decision is flawed because duplicative appeal notice requirements not only undermine the public confidence in the judiciary but also disproportionately burden pro se and incarcerated litigants.

2. Duplicative notice of appeals unnecessarily burdens court dockets.

Duplicative appeal notices are problematic because they unnecessarily burden court dockets and waste public resources.

Last year, our district courts handled 1,160,603 cases—48,000 more than Rhode Island's population.

U.S. Courts, *Federal Judicial Caseload Statistics 2024*, https://www.uscourts.gov/data-news/reports/statistical-reports/federal-judicial-caseload-statistics/federal-judicial-caseload-statistics-2024 (last accessed Mar. 1, 2025); U.S. Census Bureau, *Quick Facts Rhode Island*, Jul. 1, 2024, https://www.census.gov/quickfacts/RI (last accessed Mar. 1, 2025). Although 94 district courts managed these cases, our courts are quite busy. U.S. Courts, *Court Role and Structure*, https://www.uscourts.gov/about-federal-courts/court-role-and-structure (last accessed Mar. 1, 2024). Time and resources are precious. Marin K. Levy, *Judicial Attention as a Scarce Resource: A Preliminary Defense of How Judges Allocate Time Across Cases in the Federal Courts of Appeals*, 81 G. Wash. L. Rev. 401-447 (2013).

To ensure that courts' time and resources are not wasted, parties and attorneys avoid actions that consume judicial time, effort, and public funds if those actions do not meaningfully contribute to resolving a case. Fed. R. Civ. P. 11. In practice, an attorney or a pro se litigant avoids submitting duplicative filings to a court. *Id.* Duplicative filings contain repetitive information already presented to a court. *Id.* They waste judicial resources by using time that could be spent reviewing substantive original filings, whether for one case or another. *Id.*

District court judges manage approximately 300 cases on their dockets. Transactional Records Access Clearinghouse, *Judge Information Center*, https://tracreports.org/tracfed/judges/interp/ (last accessed Mar. 1, 2025). Time and resources are

precious. Marin K. Levy, *Judicial Attention as a Scarce Resource: A Preliminary Defense of How Judges Allocate Time Across Cases in the Federal Courts of Appeals*, 81 G. Wash. L. Rev. 401-447 (2013). If filings reiterate information the judge has already analyzed and taken notice of the time that could have been dedicated to working on another case or hearing a new issue is lost, slowing down the decision-making process. Fed. R. App. 25(a)(1). Additionally, duplicative filings delay proceedings because they must be docketed and reviewed by clerks and judges. Fed. R. App. 25. This extra administrative paperwork is time-consuming, and there are only so many hours in a day. Moreover, duplicative filings congest dockets and make it more challenging for everyone involved to identify filings. If the record needs clarification, it may necessitate additional hearings, further delaying the adjudication of the ultimate issue before a court.

For example, filing an amicus brief that is duplicative to others or even the principal brief wastes this Court's time. Sup. Ct. Ru. 29. The Court wishes to efficiently use its time to thoughtfully evaluate each filing. However, reviewing and analyzing virtually the same argument repeatedly defeats this purpose and frustrates this Court's time.

The Fourth Circuit's decision requires litigants similarly situated to Mr. Parrish to file a duplicative notice despite already filing a notice to appeal. A duplicative notice of appeal that remains substantively the same as the first filing. The Fourth Circuit required Mr. Parrish to file a second notice of appeal despite already filing a notice of appeal with

the correct substantive information. A second notice of appeal, such as this, wastes courts' time and public resources because courts must review and make another decision on a notice it already reviewed. While a court is a strong arbitrator of what will waste its time, in this matter, it seems that this decision goes against the grain and asks litigants and public resources to take the least efficient route.

Thus, upholding the Fourth Circuit's decision will be flawed jurisprudence because duplicative appeal notices impose unnecessary burdens on litigants and court dockets.

3. The decision is sua sponte but limits court access and undermines the adversarial judicial process.

Sua sponte decisions are problematic because they undermine our adversarial judicial process by raising and ruling on issues presented by neither party. The Fourth Circuit's sua sponte ruling relies on linguistic semantics to limit court access.

Our adversarial adjudication system follows the party presentation principle. *United States v. Sineneng-Smith*, 590 U.S. 371, 371 (2020) citing *Greenlaw v. United States*, 554 U.S. 237, 243 (2008). The party presentation principle relies on the parties to frame and articulate the issues to the court to neutrally arbitrate. *Id.* Courts, acting as the passive instruments of the government, decide only the issues the parties present. *United States v. Sineneng-Smith*, 590 U.S. 371, 371 (2020) citing *United States v. Samuels*, 808 F.2d 1298,1301 (8th Cir. 1987).

Compliance with the party presentation principle required the government to raise the suitability of Mr. Parrish's notice of appeal. Under the principle, the government needed to contest Mr. Parrish's notice to appeal and raise that the Fourth Circuit lacked jurisdiction. Further, the government was responsible for raising and arguing these issues before the Fourth Circuit. Ultimately, the government did not raise whether Mr. Parrish's initial notice of appeal was sufficient or whether 28 U.S.C. § 2107(c) mandated Mr. Parrish to file a second duplicative notice upon receiving an order to reopen the appeal period.

However, the Fourth Circuit independently raised this suitability issue. The Fourth Circuit relied on linguistic semantics to interpret 28 U.S.C. § 2107(c) to surmise that an earlier-filed notice of appeal is not validated by an order reopening the appeal. This interpretation disregards the Circuit's precedent that an order extending validates an earlier-filed notice. *Evans v. Jones*, 366 F.2D 772, 773 (4th Cir. 1966) (holding that upon a finding of excusable neglect, a once late filing, but turned early filing is validated). Additionally, 28 U.S.C. § 2107(c) does not expressly address whether an order reopening the appeal period validates or invalidates an earlier-filed notice of appeal. *Id.*

The Fourth Circuit's holding relies on linguistic semantics to assert that "extension" and "reopen" are distinct concepts. However, their distinction is illogical when applied. For example, a student submits an assignment a few days late in the submission box. The professor decides to reopen the submission period, allowing additional submissions

into the box. The student's assignment is already in the box, and there is a record of it being turned in. Since the professor reopened the submission box, the assignment has been submitted. The assignment is no longer considered late and is now viewed early. Does this mean the student must resubmit another copy of their assignment because the professor reopened the box? No, that would be unreasonable and illogical. It would also waste the professor's time grading both duplicative submissions.

Mr. Parrish did not fail to act timely, but the Fourth Circuit's strict interpretation of his filings and 28 U.S.C. § 2107 deemed his filings untimely because he did not file a duplicative notice of appeal. *Parrish v. United States*, 74 F.4th 160, 163-67 (4th Cir. 2023). Further, neither party raised an issue with the first notice of appeal. *Id.* However, the Fourth Circuit restricted Mr. Parrish's access to the courts to adjudicate his claim when it sua sponte introduced an issue not raised by either party. The Fourth Circuit's opinion did not adhere to the party presentation principle and diminished our adversarial judicial process. *Short v. Hartman*, 87 F.4th 593, 604 (4th Cir. 2023). The Fourth Circuit exceeded its authority as neutral arbitrators and, as a result, limited court access not just for Mr. Parrish but for others in similar situations—underserved and vulnerable litigants without sophisticated federal appellate and civil procedure knowledge, whether pro se, incarcerated, or both.

The Fourth Circuit's sua sponte decision disregards the party presentation rule, limits court access, and undermines our adversarial judicial

process. *Parrish*, 74 F.4th at 160. Therefore, as a matter of public policy, the Court should reverse the Fourth Circuit's decision because it imposes undue burdens on litigants and undermines the principles of fairness and accessibility in the judicial system. The Fourth Circuit's decision and strict interpretation of pro se filings compromise inmates' ability to participate in their own cases. Duplicative appeal notices discourage the public and target pro se and incarcerated inmates, burdening court dockets unnecessarily. The decision ignores the party presentation rule to limit court access and undermine our adversarial judicial process.

CONCLUSION

WHEREFORE, Amicus, for the above reasons, respectfully requests that this Court reverse the Fourth Circuit's ruling and remand the case to consider Mr. Parrish's appeal on the merits and for any further relief this Court deems equitable.

Respectfully submitted,

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APPENDIX

TABLE OF APPENDICES

Page

APPENDIX A — AFFIDAVIT OF ALICIA A. GUZMÁN, DATED MARCH 1, 2025

No. 24-275

In the
Supreme Court of the United States

DONTE PARRISH,

Petitioner,

v.

UNITED STATES,

Respondent.

AFFIDAVIT OF ALICIA A. GUZMÁN

I declare under penalty of perjury that the foregoing is true and correct and is executed on March 1, 2025:

1. I am over the age of 18 years and have personal knowledge of the facts stated herein.

2. I am a law student at the University of Illinois Chicago School of Law. I work as a student attorney at the University's Pro Bono Litigation Clinic. I am provisionally licensed pursuant to Illinois Supreme Court Rule 711. I am supervised by Professor and Clinic Director J. Damian Ortiz.

3. On February 18, 2025, I called my client, Fernandez. Fernandez shared that legal mail is delayed two to three weeks due to screening delays.

5. On February 24, 2025, I spoke with Beal-Smith via telephone and e-mail. Beal-Smith shared her husband's mail experience; the Clinic's letter was postmarked on February 13, 2025, and the sergeant delivered the letter to her husband on February 22, 2025

/s/ Alicia A. Guzmán

Date: March 1, 2025

APPENDIX B — AFFIDAVIT OF JULIEN ACOSTA, DATED MARCH 1, 2025

No. 24-275

In the
Supreme Court of the United States

DONTE PARRISH,

Petitioner,

v.

UNITED STATES,

Respondent.

AFFIDAVIT OF JULIEN ACOSTA

I declare under penalty of perjury that the foregoing is true and correct and is executed on March 1, 2025:

1. I am over the age of 18 years and have personal knowledge of the facts stated herein.

2. I am a law student at the University of Illinois Chicago School of Law, and I am working in the Pro Bono Litigation Clinic ("Clinic") as a student attorney under the supervision of J. Damian Ortiz.

3. Our Clinic conducted a study intended to provide insights into mailing delays experienced by inmates in the Illinois Department of Corrections.

4. For the first part of this study, our Clinic reviewed mailings from 227 individuals whom the Clinic has previously interacted with since 2016. Based on this portion of the study, our Clinic has experienced mailing delays exceeding 30 days with over twenty individuals. Therefore, approximately 8.8% of inmates whom the Clinic has dealt with since 2016 have experienced mailing delays exceeding 30 days.

5. For the second part of this study, our Clinic mailed letters to 241 individuals who were or are incarcerated in an Illinois Department of Corrections facility.

6. Of the 241 letters, 184 were mailed on February 12, 2025, and the remainder were mailed on February 13, 2025. Eleven were returned to sender because the inmates had been discharged, paroled, or transferred.

7. Some of the returned envelopes were stamped or marked paroled, discharged, or transferred, but these markers are vague.

8. Our Clinic received three responses as of March 3, 2025. Two of the responses were unrelated and requests for representation. The third response

stated that legal mail is delayed ten to twenty days for inmates, and inmates do not receive the receipts for when their legal mail is received.

/s/ Julien Acosta

Date: March 1, 2025

APPENDIX C— AFFIDAVIT OF KAYLA LINDBERG, DATED MARCH 1, 2025

No. 24-275

In the
Supreme Court of the United States

DONTE PARRISH,

Petitioner,

v.

UNITED STATES,

Respondent.

AFFIDAVIT OF KAYLA LINDBERG

I declare under penalty of perjury that the foregoing is true and correct and is executed on March 1, 2025:

1. I am over the age of 18 years and have personal knowledge of the facts stated herein.

2. I am a law student at the University of Illinois Chicago School of Law and work as a student attorney at the University's Pro Bono Litigation Clinic. I am temporarily licensed under Illinois Supreme Court Rule 711. I am supervised by Professor and Clinic Director J. Damian Ortiz.

3. On February 24, 2025, I spoke with Rice's mother, who asked whether the Clinic sent her son a decision letter. I informed Rice's mother that the Clinic sent Rice a referral letter a couple of weeks earlier. I asked Rice's mother whether he had received any of our letters yet including the mailing study. Rice's mother said her son has not received anything from our Clinic, and that is why she called. Rice's mother shared that her son typically experiences three-week mail delays.

/s/ Kayla Lindberg

Date: March 1, 2025