No. 24A 825

In The

Supreme Court of the United States

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IN RE: ANGELA W. DEBOSE,

Petitioner,

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NOTICE OF APPEAL TO THE UNITED STATES FROM THE THE ELEVENTH CIRCUIT

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To the Honorable Justice Clarence Thomas, Associate Justice of the United States Supreme Court and Circuit Justice for the Eleventh Circuit:

Re: Application for Petition of Writ of Certiorari – USA11 24-10350; Application to Stay.

INTRODUCTION

On December 26, 2024, Petitioner Angela DeBose requested a Stay in the above-referenced matter while SC# Application No. 24A367 / Case No. 24-873, is pending. On January 17, 2025, the request for a stay was returned because Petitioner failed to first request the same relief from the lower court. Petitioner put forward the argument that the decision in SC# 24-873 could potentially resolve the instant application. The case at issue was filed in the U.S. Northern District of Florida (Case No. 4:22cv439-RH-MAF) where the court declined jurisdiction on the basis of an injunction issued in the U.S. Middle District of Florida (Case No. 8:21-cv-02127-SDM-AAS) without prior notice or a hearing, in violation of Rule 65. The Northern District

of Florida issued a Clerk's Judgment and closed the case even though the Middle District of Florida injunction expired 14 days after the injunction order was issued.

On February 10, 2025, the Eleventh Circuit, having converted Petitioner's request for Rehearing/Rehearing En Banc in case 24-10350 to a Motion for Reconsideration because its Order was not an Opinion, denied reconsideration. Petitioner requested a Stay; however, on February 11, 2025, the Eleventh Circuit issued a No Action / Deficiency Notice because the case was closed. Petitioner filed a Motion to Reopen and received a No Action notice on February 19, 2025.

A party can file a petition for certiorari with the Supreme Court after the Court of Appeals converts a petition for rehearing to a motion for reconsideration. In such instance, a petition for certiorari can be filed within 90 days of the judgment or denial of a petition for rehearing.

Therefore, Petitioner asks that her petition for writ of certiorari in this matter be due in 90 days of the order denying reconsideration—May 12, 2025 or grant Petitioner a Stay pending SC# 24-873.

APPLICATION

The pertinent dates are:

a. **October 28, 2024**: Order Denying Petition for Writ of Mandamus of the United States Court of Appeals for the Eleventh Circuit, (Exhibit 1).

b. **November 16, 2024**: Motion for rehearing/rehearing en banc.

c. **December 26, 2024**: Application for a stay to file a petition for writ of certiorari in the United States Supreme Court of the October 28, 2024 order.

d. **January 17, 2025**: Letter returning motion for a stay pursuant to SC Rule 23.3.

e. **February 10, 2025**: Issuance of written order denying reconsideration, (Exhibit 2).

f. **February 11, 2025**: Motion for Stay or Alternatively an Extension of Time to Appeal to the Supreme Court.

g. **February 11, 2025**: No Action / Deficiency Notice – case closed, (Exhibit 3).

h. **February 17, 2025**: Motion to Reopen

i. **February 19, 2025**: No Action / Deficiency Notice – case closed, (Exhibit 4).

j. **February 22, 2025**: Application to file Petition for Writ of Certiorari in 90 days (i.e., May 12, 2025).

REASONS FOR GRANTING A STAY

To obtain a stay pending the filing and disposition of a petition for a writ of certiorari, an applicant must show (1) a reasonable probability that four Justices will consider the issue sufficiently meritorious to grant certiorari; (2) a fair prospect that a majority of the Court will vote to reverse the judgment below; and (3) a likelihood that irreparable harm will result from the denial of a stay. In close cases the Circuit Justice or the Court will balance the equities and weigh the relative harms to the applicant and to the respondent. *Lucas v. Townsend,* 486 U.S. 1301, 1304, 108 S.Ct.

1763, 100 L.Ed.2d 589 (1988) (KENNEDY, J., in chambers); *Rostker v. Goldberg,* 448 U.S. 1306, 1308, 101 S.Ct. 1, 65 L.Ed.2d 1098 (1980) (Brennan, J., in chambers). To obtain a stay pending the filing and disposition of a petition for a writ of mandamus, an applicant must show a fair prospect that a majority of the Court will vote to grant mandamus and a likelihood that irreparable harm will result from the denial of a stay. Before a writ of mandamus may issue, a party must establish that (1) "no other adequate means [exist] to attain the relief he desires," (2) the party's "right to issuance of the writ is 'clear and indisputable,' " and (3) "the writ is appropriate under the circumstances." *Cheney v. United States Dist. Court for D.C.,* 542 U.S. 367, 380–381, 124 S.Ct. 2576, 159 L.Ed.2d 459 (2004) (some internal quotation marks omitted). This Court will issue the writ of mandamus directly to a federal district court "only where a question of public importance is involved, or where the question is of such a nature that it is peculiarly appropriate that such action by this court should be taken." *Ex parte United States,* 287 U.S. 241, 248–249, 53 S.Ct. 129, 77 L.Ed. 283 (1932).

Specifically, a district court's dismissal instead of transfer of venue is reviewed for whether the court properly applied the "forum non conveniens" doctrine, which means the court must consider if another forum is significantly more convenient for the parties and witnesses, even if the current venue is technically proper. *Piper Aircraft Co. v. Reyno,* 454 U.S. 235, 102 S. Ct. 252 (1981). If a court finds that a different venue would be more convenient, it usually has the option to transfer the case under 28 U.S.C. § 1404(a) instead of dismissing it outright.

I. In SC# 24-873, the district court likely violated federal rule of civil procedure 65 in failing to hold any hearing in issuing a preliminary injunction or temporary restraining order ("TRO"). In such instance of a complete denial of due process (i.e., notice and a hearing), applicants have shown a fair prospect that a majority of this Court will either grant a petition for a writ of certiorari and reverse the order below or will grant a petition for a writ of mandamus.

II. In the instant case below, the district court deviated from the forum non conveniens standard, essentially depriving Ms. DeBose of an available forum. The district court had jurisdiction over the Defendants. Under such circumstances, the court could have been persuaded to exercise its discretion. The "interest of justice" also permitted the district court to exercise its discretion by transferring venue; however, the district court failed to perform an interest of justice analysis. Such analysis would have shown that Petitioner was diligent in determining and pursuing the most proper forum (i.e., the Middle District of Florida) in the first instance but it refused to allow Ms. DeBose to file a proposed Third Amended Complaint[1] and also rejected a new complaint submitted to the clerk. The Northern District of Florida dismissed instead of transferring the case—a potential abuse of discretion because the ruling was arbitrary or unreasonable:

- **Ignoring relevant factors:** the district judge failed to consider important factors that should have been weighed when deciding

[1] The Middle district court ordered the amended and second amended complaint upon striking the complaints on the basis of technicalities.

whether to transfer a case, like whether there was an alternative available forum, the potential for success on the merits in a different court system.

- **Applying the law inconsistently:** the district judge applied the transfer rules differently in similar cases, without a clear explanation for the discrepancy. See Case No 4:22-cv-00324-MW-MAF, *NOVOA et al v. DIAZ JR et al.*, filed 9/6/2022; Case No. 4:2022cv00100, *Bobby Shed v. USFBOT et al.*, filed 3/7/2022, transferred to MDF.

- **Based on personal bias:** the district judge's decision was influenced by personal prejudices against the Plaintiff or her circumstances based on the temporary injunction order of the Middle District of Florida, being held out as permanent, rather than the legal merits of Ms. DeBose's case.

To argue that a decision to not transfer a case is arbitrary or absurd, Petitioner needs to demonstrate how the district judge's reasoning was against the logic of the facts or does not align with the established legal principles and relevant case law. See *Wilcox v. Georgetown Univ.*, 987 F.3d 143, 150 (D.C. Cir. 2021) ("The district court's skepticism about aspects of [plaintiffs'] case was confined to the factual allegations in the complaint before it."). The Northern District of Florida itself did not conduct any proceedings and looked outside the complaint and followed the same conduct as the Middle District of Florida. *Res judicata* could not serve as the basis for dismissing Ms. DeBose's complaint, according her no opportunity to amend at least once. See *Perez v. Kipp DC Supporting Corp.*, 70 F.4th 570 (D.C. Cir. 2023); See *Wilcox v. Georgetown University*, 987 F.3d 143, 149 (D.C. Cir. 2021), with id. at 154 (Randolph, J., dissenting). The district court dismissed the complaint without prejudice. The panel

overlooked that Ms. DeBose had no avenue for an appeal of an order dismissed without prejudice.

Section 1404(a) of Title 28 provides that: "for the convenience of parties and witnesses, in the interest of justice, a district may transfer any civil action to any other district where it might have been brought." Any party, including plaintiff, may move for a transfer at any time under 28 U.S.C. § 1404(a). *I-T-E- Circuit Breaker Co. v. Regan*, 348 F.2d 403 (8th Cir. 1965). "Unlike a motion to *dismiss* for improper venue *under* Rule 12(b)(3), a motion to *transfer* venue *under* Section *1404*(a) is not a 'defense' that must be raised by pre-answer motion or in a responsive pleading." A *case* may be transferred *under §* 1404(a) if "(1) venue is proper in both the transferor and transferee court; (2) *transfer* is for the convenience of the parties and witnesses; and (3) *transfer* is in the interest of justice." *See Research Automation, Inc. v. Schrader-Bridgeport Int'l, Inc.*, 626 F.3d 973, 977-78 (7th Cir. 2010). The district court also had discretion to transfer the action sua sponte. See *Lead Industries Association, Inc. v. Occupational Safety and Health Administration*, 610 F.2d 70, 79 n.17 (2d Cir. 1979). The district court deviated from conducting a proper balancing test. See *Piper Aircraft Co. v. Reyno*, 454 U.S. 235 (1981). In that case, the Court held that so long as there was a remedy available in the alternate forum, it did not matter if the remedy was clearly insufficient. *See Gulf Oil Corp. v. Gilbert,* 330 U.S. 501, 508 (1947) ("[U]nless the balance is strongly in favor

of the defendant, the plaintiff's choice of forum should rarely be disturbed.").

III. The Northern District is a proper forum

"A civil action may be brought in" any of the following:

> **(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 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.**

28 U.S.C. § 1391(b) (emphasis added). "When venue is challenged, the court must determine whether the case falls within one of the three categories set out in § 1391(b). If it does, venue is proper; if it does not, venue is improper, and the case must be dismissed or transferred under [28 U.S.C.] § 1406(a)." *Atl. Marine Const. Co. v. U.S. Dist. Ct. for W. Dist. of Tex.*, 571 U.S. 49, 56 (2013). Venue was proper in the district court under category (3).

LEGAL STANDARD

The Supreme Court's criteria to grant a Stay are satisfied. The stay is not "immoderate" in time and scope. *Trujillo v. Conover & Co. Comms., Inc.*, 221 F.3d 1262, 1264 (11th Cir. 2000); *Blinco v. Green Tree Servicing LLC*, 366 F.3d 1249, 1252-53 (11th Cir. 2004). A stay pending resolution of Petitioner's appeal, is justified and properly limited in duration. A stay will not unduly prolong the litigation nor

prejudice the Respondents. There is a "reasonable probability that four justices will vote to grant certiorari and a reasonable possibility that the Supreme Court justices will vote to reverse because the district court violated Rule 65 in SC# 24-.

1. Irreparable harm

In the petition under SC# 24-873, the district court should have dismissed the motion for preliminary relief because the defendants, a private company and private attorney, failed to establish that they were government actors or arms of the government with a compelling government interest. The defendants failed to establish that denial would result in present irreparable harm. In the instant case below, if a court finds that a different venue would be more convenient, it usually has the option to transfer the case under 28 U.S.C. § 1404(a) instead of dismissing it outright.

2. Likelihood of success on the merits

Petitioner argues a high likelihood of success on the merits exists because there is a "reasonable probability that four justices will vote to grant certiorari and a reasonable possibility that the Supreme Court justices will vote to reverse because the district court violated Rule 65 in SC #24-873 by failing to hold any hearing. In *Dykes v. Hosemann*, the Eleventh Circuit stripped a Florida judge of judicial immunity for actions clearly violating the due process clause, (743 F.2d 1488, 1496 [11th Cir. 1984]). Judge Hatchett stated that everyone should be held liable for due process violations, particularly the very people trained in due process—i.e., judges. (*Dykes v. Hosemann*, 776 F.2d 942, 954-55 [11th Cir. 1985]).

3. Likelihood of certiorari or reversal

Because the Petitioner has shown a likelihood of success on the merits, the remaining requirements necessarily follow. *See Otto v. City of Boca Raton*, 981 F.3d 854, 870 (11th Cir. 2020).

CONCLUSION

For the above and foregoing reasons, Petitioner Angela DeBose requests a Stay during this Court's review of SC# 24-873.

Respectfully submitted,

/s/ Angela W. DeBose Angela W. DeBose

Angela W. DeBose
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Tampa, FL 33604
Telephone: (813) 230-3023
E-Mail: awdebose@aol.com
Petitioner

February 22, 2025

Certificate of Service

I hereby certify that a copy of the foregoing has been filed via mail delivery service to the Clerk of the Supreme Court as well as via the Supreme Court's electronic filing system. A copy of the foregoing has been served via email delivery to all counsels of record for Respondents.

/s/ Angela W. DeBose Angela W. DeBose

Angela W. DeBose

EXHIBIT 1

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-10350

In re: ANGELA W. DEBOSE,

Petitioner.

On Petition for Writ of Mandamus to the
United States District Court for the
Northern District of Florida
D.C. Docket No. 4:22-cv-00439RH-MAF

Before BRANCH and LAGOA, Circuit Judges.

BY THE COURT:

Angela DeBose, proceeding *pro se*, petitions this Court for a writ of mandamus arising out of a closed civil case she filed in the U.S. District Court for the Northern District of Florida. In her mandamus petition, DeBose argues that this Court should order the district court to vacate its order dismissing her complaint for lack of venue and declining to transfer it to another district. DeBose has also filed several motions, requesting that we disqualify counsel who represented the defendant in the district court, take judicial notice of a complaint she filed in the U.S. District Court for the District of Columbia, and correct the record with respect to her motion for judicial notice.

Mandamus is available "only in drastic situations, when no other adequate means are available to remedy a clear usurpation of power or abuse of discretion." *Jackson v. Motel 6 Multipurpose, Inc.*, 130 F.3d 999, 1004 (11th Cir. 1997) (quotation marks omitted); *United States v. Shalhoub*, 855 F.3d 1255, 1259 (11th Cir. 2017). Mandamus may not be "used as a substitute for appeal, or to control decisions of the [district] court in discretionary matters." *Jackson*, 130 F.3d at 1004 (quoting *In re Estelle*, 516 F.2d 480, 483 (5th Cir. 1975)). When an alternative remedy exists, even if it is unlikely to provide relief, mandamus relief is not proper. *See Lifestar Ambulance Serv., Inc. v. United States*, 365 F.3d 1293, 1298 (11th Cir. 2004). The petitioner has the burden of showing that they have no other avenue of relief, and that their right to relief is clear and indisputable. *Mallard v. United States Dist. Court*, 490 U.S. 296, 309 (1989).

A party may appeal a final judgment of a district court to the court of appeals by filing a notice of appeal within 30 days after the judgment is entered. 28 U.S.C. § 2107(a). An appeal from a final judgment brings up for review all preceding non-final orders that produced the judgment. *Mickles on behalf of herself v. Country Club, Inc.*, 887 F.3d 1270, 1278-79 (11th Cir. 2018).

Here, DeBose is not entitled to mandamus relief because she seeks to challenge the district court's 2023 order dismissing her complaint and declining to transfer it to another district court, but she had the adequate alternative remedy of appealing the district court's order after it entered judgment against her. *See* 28 U.S.C. § 2107(a); *Mallard*, 490 U.S. at 309; *Mickles*, 887 F.3d at 1278-79; *Shalhoub*, 855 F.3d at 1259; *Jackson*, 130 F.3d at 1004; *Lifestar Ambulance Serv., Inc.*, 365 F.3d at 1298. As DeBose cannot use mandamus as a substitute for appeal, her request for mandamus relief is inappropriate. *See Jackson*, 130 F.3d at 1004; *Mallard*, 490 U.S. at 309. Accordingly, DeBose's petition is hereby **DENIED**, and her motions to disqualify respondent's counsel, take judicial notice, and correct the record are **DENIED** as moot.

EXHIBIT 2

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-10350

In re: ANGELA W. DEBOSE,

Petitioner.

On Petition for Writ of Mandamus to the
United States District Court for the
Northern District of Florida
D.C. Docket No. 4:22-cv-00439-RH-MAF

Before BRANCH and LAGOA, Circuit Judges.

BY THE COURT:

Angela DeBose, proceeding *pro se*, has filed a motion for rehearing and rehearing *en banc* of the denial of her mandamus petition, which we construe as a motion for reconsideration of that denial, as well as the of denial as moot of several related motions. Her mandamus petition concerned the dismissal of a civil action DeBose had filed in the Northern District of Florida. We determined that DeBose was not entitled to relief through mandamus because she had the adequate alternative remedy of appealing the district court's order after it entered judgment against her.

A party seeking rehearing or reconsideration must specifically allege any point of law or fact that we overlooked or misapprehended. Fed. R. App. P. 40(a)(2). In the district court context, "[a] motion for reconsideration cannot be used to relitigate old matters, raise argument or present evidence that could have been raised prior to the entry of judgment." *Wilchombe v. TeeVee Toons, Inc.*, 555 F.3d 949, 957 (11th Cir. 2009) (quotation marks omitted).

We have carefully reviewed all the arguments DeBose raises in her motion for reconsideration, and we conclude that there is no point of law or fact that we overlooked or misapprehended. Fed. R. App. P. 40(a)(2). Accordingly, DeBose's motion for reconsideration is **DENIED.**

EXHIBIT 3

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

February 11, 2025

Angela W. DeBose
1107 W KIRBY ST
TAMPA, FL 33604

Appeal Number: 24-10350-F
Case Style: In re: Angela DeBose
District Court Docket No: 4:22-cv-00439RH-MAF

NO ACTION / DEFICIENCY NOTICE

Notice that no action will be taken on Motion [10397637-2], Motion to stay further appellate proceedings [10397637-3], Motion to take judicial notice [10397637-4] filed by Petitioner Angela W. DeBose.
Reason(s) no action being taken on filing(s): This case is closed..

No deadlines will be extended as a result of your deficient filing.

ACTION REQUIRED

For motions for reconsideration or petitions for rehearing that are not permitted, no action is required or permitted. Your filing will not be considered.

For mistaken filings, to have your document considered, **you must file the document in the correct court.**

For all other deficiencies, to have your document considered, you **must refile the entire document** after all the deficiencies identified above have been corrected and you **must include** any required items identified above **along with** the refiled document. No action will be taken if you only provide the missing items without refiling your entire document.

Please note that any filing submitted out of time must be accompanied by an appropriate motion, *i.e.,* a motion to file out of time, a motion to reinstate if the case has been dismissed, and/or a motion to recall the mandate if the mandate has issued.

Clerk's Office Phone Numbers

General Information:	404-335-6100	Attorney Admissions:	404-335-6122
Case Administration:	404-335-6135	Capital Cases:	404-335-6200
CM/ECF Help Desk:	404-335-6125	Cases Set for Oral Argument:	404-335-6141

Notice No Action Taken

EXHIBIT 4

EXHIBIT 4

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

February 19, 2025

Angela W. DeBose
1107 W KIRBY ST
TAMPA, FL 33604

Appeal Number: 24-10350-F
Case Style: In re: Angela DeBose
District Court Docket No: 4:22-cv-00439RH-MAF

NO ACTION / DEFICIENCY NOTICE

Notice that no action will be taken on Motion to reopen appeal. [10401545-2], Motion to Vacate Opinion [10401545-3] filed by Petitioner Angela W. DeBose.
Reason(s) no action being taken on filing(s): This case is closed..

No deadlines will be extended as a result of your deficient filing.

ACTION REQUIRED

For motions for reconsideration or petitions for rehearing that are not permitted, no action is required or permitted. Your filing will not be considered.

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For all other deficiencies, to have your document considered, you **must refile the entire document** after all the deficiencies identified above have been corrected and you **must include** any required items identified above **along with** the refiled document. No action will be taken if you only provide the missing items without refiling your entire document.

Please note that any filing submitted out of time must be accompanied by an appropriate motion, *i.e.*, a motion to file out of time, a motion to reinstate if the case has been dismissed, and/or a motion to recall the mandate if the mandate has issued.

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Case Administration:	404-335-6135	Capital Cases:	404-335-6200
CM/ECF Help Desk:	404-335-6125	Cases Set for Oral Argument:	404-335-6141

Notice No Action Taken