App No._____

IN THE UNITED STATES SUPREME COURT

SEAN MURPHY, et al.,

Petitioners,

v.

TOWN OF FARRAGUT, TENNESSEE, et al.,

Respondents.

On Application for an Extension of Time
to File a Petition for a Writ of Certiorari from the
United States Court of Appeals for the Sixth Circuit

PETITIONERS' APPLICATION FOR EXTENSION OF TIME TO FILE PETITION FOR WRIT OF CERTIORARI

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Corporate Disclosure Statement

Under Supreme Court Rule 29.6, Sean Murphy and Denise Pagels states that they have no corporation with no parent corporation and no publicly held company in which they own 10% or more of its stock.

To the Honorable Brett Kavanaugh, as Circuit Justice for the United States Court of Appeals for the Sixth Circuit:

Following this Court's Rules 13.5, 22, 30.2, and 30.3, Applicants Sean Murphy, Denise Pagels, and as parents on behalf of V.M., A.M., E.M., and A.M. respectfully requests that the time to file its petition for a writ of certiorari be extended for 60 days, up to and including Monday, April 21, 2025 on both the denial of their writ of mandamus [24-5646], as well as their appeal as of right to the Sixth Circuit Court of Appeals [24-5678]. On December 20, 2024, the Clerk of the Sixth Circuit Court of Appeals, Kelly L. Stephens prepared, signed, and entered a joint Opinion for both Case No. 24-5646 and Case No. 5678 (Appx. A) and on January 13, 2025, the Petitioner filed an Omnibus Motion requesting the joint Order be Voided (Appx. B). Absent an extension of time, the petition would be due on Thursday, March 20. 2025. The jurisdiction of this Court is based on 28 U.S.C. 1254(1).

Background

This case presents an important question on the authority of the Sixth Circuit Court of Appeals Clerk, Kelly Stephens, and whether she has the authority to prepare, sign, and enter joint orders that contain legal conclusions and dismiss properly filed petitions for writ of mandamus filed under 28 U.S.C. § 1651, as well as timely appeals. Continuing, whether the Sixth Circuit Case Managers can work at home using burner phones, or their laptops to conduct federal court business and whether they are also exceeding their authority to prepare, sign, and enter "letter orders" denying properly filed motions brought under the Federal Rules of Appellate Procedure (FRAP) Rule 10 and Rule 48 especially noting that Chief Judge Travis

McDonough held a hearing without recording it and has admitted to deleting documents from the Court's Record and having a staff member scrub metadata from federal filings.

Petitioners filed a civil rights lawsuit in the Eastern District of Tennessee against the Town of Farragut, Tennessee (hereinafter "the TOF") and co-conspirators, Joseph Fielden, J.A. Fielden, Biddle Farms Residential LLC, Farragut Press and Kirk Swor. Mr. Murphy and Mrs. Pagels, as well as their minor children, were exercising their First Amendment Rights when attempting to expose the corruption in the TOF including the fraud waste, and abuse of American tax-payer's funds to build low-income apartments in the TOF, a wealthy suburb. In exercising their right to free speech, the Murphy family placed political artwork in their front yard, formed a political action group that was meeting at their home-owners association's clubhouse, posted on the TOF's social media platforms, attended public meetings, started a podcast, as well as radio network show of which the Defendants through retaliation shut down. In further violation of the Murphy family's First Amendment rights the co-defendants have filed false police reports accusing Mr. Murphy of trying to run down an official with his car which was proven by the TOF's security cameras to be an abject lie, had an armed officer deliver a sign ordinance violation to his home, doxed the family's license plate, conspired with the HOA to deny the Murphy family access to continue their political meetings, banned Mr. Murphy from multiple social media platforms, has and continues to drive by Murphy's home up to sixty times in a month, sent a death threat using the U.S.

Post Office and more. These attacks on the Murphy family for exercising their right to free speech are shocking.

It became clear to the Murphy family that both Judge McDonough and Magistrate Jill McCook were biased and showed favoritism to the Defendants. Judge McDonough held a hearing without recording it in violation of the code of federal regulations as no record was left from that telephonic hearing for the Petitioner to cite to and seek appellate relief from, ordered the District Court Clerk to add a party, Knox County, Tennessee, to the litigation, which does not appear in the style of the case, is not listed in the party section, nor was a summons issued, yet added the party, gave legal advice to the parties allowing Defendant to change their motions, and made remarks at the hearing which was not recorded that this sounds like a case that should be settled through an election.

Then on April 5th, 2024, while multiple motions were pending including the Plaintiffs' Motion for Sanctions for spoliation of evidence, Judge McDonough filed an Order that did not dismiss all the claims or for that fact address all of the parties. Mrs. Stephens in her joint Order accuses Plaintiffs of not filing their Rule 59 timely which is false and further the Order was not final as it did not settle all issues at controversy. Finally, the Plaintiffs were forced to file a Motion to Recuse both himself and Magistrate Judge McCook due to the clear presence of the appearance of impropriety. Thereafter, Judge McDonough improperly denied both his recusal and Magistrate Judge McCook's recusal in a joint order the Plaintiffs filed a timely appeal. Petitioners filed and sought relief from the failure to recuse

through a writ of mandamus, which the Sixth Circuit Court of Appeals denied avoiding a clear precedent set by this Honorable Court.

Reasons For Granting An Extension Of Time

The time to file a Petition for Writ of Certiorari should be extended for 60 days for the following reasons:

1. Petitioners' Counsel of Record, Van Irion, was not involved in the litigation below and has only recently been retained to prepare for certiorari. It will take considerable time for Mr. Irion to familiarize himself with the substantial record and prepare a concise petition of maximum helpfulness to the Court. In addition, Mr. Irion has numerous state trials and litigation deadlines in the weeks leading up to and immediately following the current deadline:
    - A trial in Loudon County Tennessee beginning on March 24, 2025. *Tennessee Wellness, et al. v. Lakeway Medical Partners,* Loudon County Circuit Court No. 2019-cv-106.
    - A jury trial in Knoxville Tennessee on April 28, 2025. *Jefferey Bunch v. Transamerica*, Knox County Chancery Court No. 1-153-22.
    - A brief due in the Court of Appeals of Tennessee, *State Ex Rel Adolphus Pelly v. Bo Perkinson*, Tennessee Court of Appeals No. E2024-00644-COA-R3-CV.

- Assist and prepare a Rule 59 due on March 18, 2025 in, *Glen Whiting v. City of Athens,* E.D. of Tennessee, Case No. 3:23-cv-2.
- A Federal Claims Act (FCA) lawsuit is under seal in the Middle District Court of Tennessee.
- Two pending appellate briefs due in the Sixth Circuit, *Whiting v City of Athens et al. and Whiting v. City of Athens et al.*
- Counsel of Record further has several cases that he will be expected to assist and prepare Responses and Reply briefs within the next 60 days.

Conclusion

The applicant requests that the time to file a writ of certiorari in the above-captioned matter be extended 60 days to and including Monday, April 21, 2025.

Respectfully submitted

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APPENDIX A

Nos. 24-5646/5678

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

In re: SEAN MURPHY, on behalf of V.M., A.M., E.M., A.M., et al. [24-5646],

Petitioners.

SEAN MURPHY, on behalf of V.M., A.M., E.M., A.M., et al. [24-5678],

Plaintiffs - Appellants,

v.

FARRAGUT, TN, et al.,

Defendants-Appellees.

ORDER

Before: BATCHELDER, COLE, and BUSH, Circuit Judges.

In No. 24-5646, Plaintiffs Sean Murphy and his wife Denise Pagels, on behalf of themselves and their four minor children, V.M., A.M., E.M., and A.M., petition for a writ of mandamus directing the district court to recuse itself from the underlying suit alleging that various municipal and corporate Defendants conspired to unlawfully obtain millions of dollars in federal funding and then retaliated when Murphy blew the whistle. They also move to supplement their petition, and to stay related state court proceedings pending a ruling on their petition.

"'[M]andamus is the proper remedy to vacate the orders of a judge who acted when he should have recused.'" *In re Aetna Cas. & Sur. Co.*, 919 F.2d 1136, 1142 (6th Cir. 1990) (quoting *Moody v. Simmons*, 858 F.2d 137, 143 (3d Cir. 1988)). But mandamus "is a 'drastic and extraordinary' remedy 'reserved for really extraordinary causes.'" *Cheney v. U.S. Dist. Ct. for D.C.*, 542 U.S. 367, 380 (2004) (quoting *Ex parte Fahey*, 332 U.S. 258, 259–60 (1947)). "As the writ is one of the most potent weapons in the judicial arsenal, three conditions must be satisfied before it may issue": the petitioners "must have no other adequate means to attain the relief [they] desire[]"; they must show that the "right to issuance of the writ is clear and indisputable"; and this court "must be satisfied that the writ is appropriate under the circumstances." *Id.* at 380–81 (cleaned up).

Plaintiffs fail to show that they are clearly and indisputably entitled to the writ or that mandamus relief is appropriate under the circumstances. Recusal or disqualification is required when a judge's "impartiality might reasonably be questioned," when the judge "has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding," or when the judge previously practiced law with one of the attorneys in the case while the case was ongoing. 28 U.S.C. § 455(a)–(b).

Despite the volume and breadth of their allegations, Plaintiffs' disqualification argument boils down to alleged bias in the administration of their case and the district judge's past professional relationships. The first is plainly insufficient; recusal and disqualification must be based on extra-judicial conduct. *Youn v. Track, Inc.*, 324 F.3d 409, 423 (6th Cir. 2003). Nor do Plaintiffs demonstrate that the judge has improper knowledge or personal bias because he formerly worked for a past Chattanooga mayor (who has not held that office for years and is not a defendant in this case); worked for a law firm involved in local development projects; or went to law school

with one of the defense attorneys. Such professional acquaintances are common, and at best, Plaintiffs rely on attenuated inferential chains with no direct link to their alleged injuries—this is not enough to reasonably question the district judge's personal knowledge or impartiality.

In No. 24-5678, Plaintiffs appeal the district court's dismissal of their suit. Defendants move to dismiss the appeal as untimely. Plaintiffs were granted an extension of time to respond, but they have not done so. On the day their response was due, however, they filed a motion to appoint a special master and for another extension of time to respond. Plaintiffs have also filed a motion to vacate the Clerk's ruling letter denying their motion to stay briefing as moot because briefing was already being held in abeyance.

In civil cases, a timely notice of appeal is a jurisdictional prerequisite; we must dismiss untimely civil appeals. *Hamer v. Neighborhood Hous. Servs. of Chi.*, 583 U.S. 17, 19 (2017). In general, an appellant has thirty days to file a notice of appeal in a civil suit. Fed. R. App. P. 4(a)(1)(A); 28 U.S.C. § 2107(a). When a party files a motion under Federal Rule of Civil Procedure 59 to alter or amend the judgment, the thirty-day deadline begins when the district court disposes of that motion. Fed. R. App. P. 4(a)(4)(A)(iv). But this tolling only occurs when the Rule 59 motion is itself timely, Fed. R. App. P. 4(1)(4)(A), and Rule 59 motions must be filed no later than twenty-eight days after the judgment is entered, Fed. R. Civ. P. 59(e).

At the same time, "[a] party who files a Rule 59(e) motion must comply with the motions filing requirements set forth in [Federal Rule of Civil Procedure] 7(b)," *Intera Corp. v. Henderson*, 428 F.3d 605, 611 (6th Cir. 2005), which requires that motions "state with particularity the grounds for seeking [relief]," Fed. R. Civ. P. 7(b)(1)(B). When the movant does not state the grounds for the motion as required by Rule 7(b), and fails to correct that deficiency within the time frame

provided by Rule 59(e), the "motion is 'inadequate,' and consequently, does not toll the period for filing a timely appeal." *Intera Corp.*, 428 F.3d at 611.

We construe the particularity requirement liberally, *see id.*, but where, as here, a motion offers no substantive basis for relief or citation to authority, we routinely find the motion deficient, *see, e.g.*, *Metyk v. KeyCorp*, 560 F. App'x 540, 543 (6th Cir. 2014); *see also In re Kelvin Publ'g, Inc.*, 72 F.3d 129, 1995 WL 734481, at *6 (6th Cir. Dec. 11, 1995) (per curiam) ("[U]nder Fed. R. Civ. P. 7(b) a motion must be particular enough that the opposing party can comprehend the basis for it and respond appropriately."). Because Plaintiffs' Rule 59 motion failed to state the grounds for relief as required by Rule 7(b), it did not toll the deadline to appeal under Rule 4(a)(4)(A)(iv). As a result, their notice of appeal was not timely and the appeal must be dismissed. *Hamer*, 583 U.S. at 19. Dismissal renders Plaintiffs' other motions moot.

Accordingly, in No. 24-5646, the December 17, 2024, motion to supplement is **DENIED**, the remaining motions to supplement are **GRANTED**, and the petition for a writ of mandamus is **DENIED**. In No. 24-5678, the motions to dismiss are **GRANTED** and the remaining motions are **DENIED AS MOOT**.

ENTERED BY ORDER OF THE COURT

Kelly L. Stephens, Clerk

CERTIFICATE OF SERVICE

A copy of this Application has been emailed and mailed to the Respondents' Counsel in accordance with Supreme Court Rules 22.2 and 29.3.

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