

Joseph Michael Ladeairous #1433027
Augusta Correctional Center
1821 Estaline Valley Road
Craigsville Virginia 24430

August 17, 2022

UNITED STATES COURT OF APPEALS
FOR DISTRICT OF COLUMBIA CIRCUIT

AUG 22 2022

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Clerk of the Court
Mark J. Langer
U.S. Court of Appeals
for the District of Columbia
333 Constitution Avenue N.W.
Washington D.C. 20001

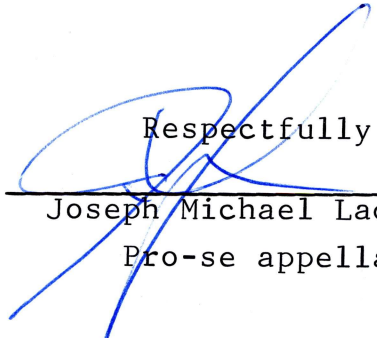
RE; Ladeairous v. Garland No.21-5119

Mr Langer

Could you please file and docket the attached petition for rehearing en banc concerning the above said matter with the other papers in this cause.

Thank you for your time and attention to this very important matter.

Respectfully,



Joseph Michael Ladeairous
Pro-se appellant

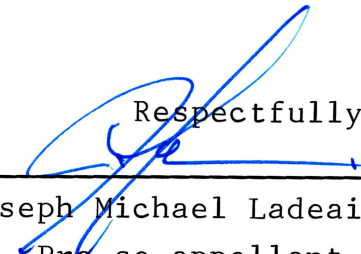
CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of August 2022 a true and accurate copy of appellant's petition for rehearing en banc and all attachments were mailed to all parties as shown below;

Clerk of the Court
Mark J. Langer
U.S. Court of Appeals
For the District of Columbia
333 Constitution Avenue N.W.
Washington D.C. 20001

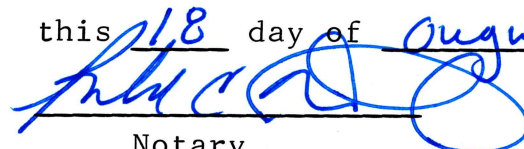
Douglas C. Dreier
Assistant U.S. Attorney
555 Fourth Street N.W.
Washington D.C. 20530

Respectfully,



Joseph Michael Ladeairous
Pro-se appellant

Subscribed and sworn to before me
this 18 day of August, 2022



Notary

My commission expires; 8/31/24

RICHARD CLAYTON ATKINS JR.
NOTARY PUBLIC
Commonwealth of Virginia
Registration No. 7531652
My Commission Expires August 31, 2024

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA

JOSEPH MICHAEL LADEAIROUS

Pro-se appellant

V.

No. 21-5119

U.S. ATTORNEY GENERAL et. al.

Appellee

PETITION FOR REHEARING EN BANC

COME NOW, Joseph Michael Ladeairous, appellant in the above said matter, brings forth this petition for rehearing en banc pursuant to the Federal Rules of Appellate Procedure (F.R.A.P) Rule 40(a)(2).

To start, the appellant will show that the court had overlooked points of law and misapprehended facts in its August 5th, 2022 ruling to dismiss appellant's appeal as untimely for the following reasons.

To argue, in the court's ruling to dismiss appellant's appeal as untimely, the court has disregarded the effects of its own order to show cause. In its ruling the court stated that appellant's reply to its show cause order was nothing more than a request by appellant for "an equitable exemption from a jurisdictional deadline" and the court had "no power to grant that equitable relief".

To the contrary, the court's June 2nd 2021 order to show cause had led appellant to believe something entirely different. The court's

order clearly stated that if appellant did not fulfill the court's order and show cause as to why appellant's appeal should not be dismissed as untimely. The appellant's appeal would be dismissed for lack of prosecution. (See; Exhibit A) However, if what the court now stated in its recent decision that it had no power to grant the needed equitable relief. Then the appellant's reply to the court's order to show cause could not have resulted in anything but one of those to outcomes. Therefore, the court's order to show cause did nothing more than lead appellant down a rabbit hole. As well as impede any attempt by appellant to then pursue the proper avenues. Namely, a Federal Rules of Appellate Procedure (F.R.A.P.) Rule 4(a)(6) motion.

In addition, the court's show cause order also led appellant to believe that appellant's reply to its order was the equivalent to submitting a Rule 4(a)(6) motion. Reason being, as the court's order stated, appellant could respond to this order with a copy of a Rule 4(a)(6) motion submitted to the district court. In that light, it would only seem to reason that if a Rule 4(a)(6) motion could satisfy this court's show cause order. Then, this court's show cause order could satisfy a Rule 4(a)(6) motion.

Furthermore, the reason appellant chose to answer the show cause order instead of furnishing the court with a copy of a Rule 4(a)(6) motion submitted to the district court. When reading the court's order it is not difficult to discern which one of the two choices was more paramount. Since the court said outright that appellant's appeal would be dismissed if the court's show cause order was not followed. In contrast to the court just stating that appellant "may" respond to its order by sending it a copy of a Rule 4(a)(6).

Moreover, the most egregious aspect of the courts ruling is not only that appellant is being held accountable for having recieved mail from the district court late and past the 60 day limit to submit a notice of appeal. But, that the court has completely disregarded that this all had taken place in the middle of a world pandemic and the effects the pandemic had on the court, the postal service, and the Virginia prison that appellant is imprisoned. For examole, the appellant had not been allowed access to the prison law library at the time in question due to the prison's social distancing restrictions. In fact, it took appellant almost a full week, from May 4th to May 10th, just to obtain a notary public for appellant's notice of appeal. A fact the court mentioned in the first footnote of its decision. Once more, a long held precedent that a prisoner's access to a prison's law library for legal assistance is a "constitutional mandate". (Gilmore v. Young 404 U.S. 15 (1971)) This precedent was denied appellant which may have cured any deficiency appellant's notice of appeal would have or could have suffered if not for the pandemic.

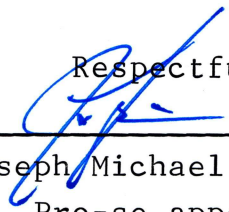
To close, appellant fails to see the fair and impartiality, which is said to be the cornerstones of the United State's legal system's jurisprudence, in the courts ruling for this appeal.

IN CONCLUSION

WHEREFORE, for the reasons set forth in this petition for rehearing en banc, appellant prays that this most honorable court enter judgment to grant said petition.

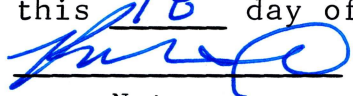
August 17th, 2022
Joseph Michael Ladeairous
Augusta Correctional Center
1821 Estaline Valley Road
Craigsville Virginia

Respectfully,



Joseph Michael Ladeairous
Pro-se appellant

Subscribed and sworn to before me
this 18 day of august, 2022



Notary

My commission expires; 8/31/24

RICHARD CLAYTON ATKINS JR.
NOTARY PUBLIC
Commonwealth of Virginia
Registration No. 7531652
My Commission Expires August 31, 2024

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21-5119

September Term, 2020

1:15-cv-00954-ABJ

Filed On: June 2, 2021 [1901030]

Joseph Michael Ladeairous,

Appellant

v.

Merrick B. Garland, U.S. Attorney General
and Michael E. Horowitz, U.S. Inspector
General,

Appellees

ORDER

Appellant is seeking review of an order of the United States District Court for the District of Columbia entered on February 24, 2021. The notice of appeal was filed on May 17, 2021, which is beyond the "60-day" period provided by Fed. R. App. P. 4(a). Upon consideration of the foregoing, it is

ORDERED, on the court's own motion, that appellant show cause by July 2, 2021, why this appeal should not be dismissed as untimely. The response to the order to show cause may not exceed the length limitations established by Fed. R. App. P. 27(d)(2) (5,200 words if produced using a computer; 20 pages if handwritten or typewritten). Failure by appellant to respond to this order will result in dismissal of the appeal for lack of prosecution. See D.C. Cir. Rule 38.

Appellant may respond to this order to show cause by filing in this court a copy of a motion pursuant to either Fed. R. App. P. 4(a)(5) or 4(a)(6) that has been submitted to the District Court. A copy of the pertinent sections of Fed. R. App. P. 4 is attached.

The Clerk is directed to send a copy of this order to appellant by whatever means necessary to ensure receipt.

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/

Lynda M. Flippin

Deputy Clerk

Attachments:

Copy of the Pertinent Sections of Fed. R. App. P. 4.

Joseph Ladeairous #14330
Augusta Correctional Cen
1 & 21 Estaline Valley &
Craigoville Virginia 24712

THE DEPARTMENT OF CORRECTIONS HAS
NEITHER CENSORED NOR INSPECTED THIS
ITEM AND ASSUMES NO RESPONSIBILITY
FOR ITS CONTENT

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