

No.: 25-____

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In The

Supreme Court of the United States
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IN RE VAN IRION, and RUSSELL EGLI,
Petitioners,

v.

KELLY STEPHENS, Clerk of the Court for the 6th
Circuit, and JEFFREY SUTTON, Chief Judge of the
6th Circuit,

Respondents.
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**On Petition for a Writ of Mandamus
and/or Prohibition to the
U. S. Court of Appeals for the Sixth Circuit**
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**PETITION FOR WRIT OF MANDAMUS
and/or
PETITION FOR WRIT OF PROHIBITION**

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QUESTIONS PRESENTED

- (1) Is the 6th Circuit Clerk Authorized to Draft and Enter Substantive Orders?
- (2) Are Clerk-Entered Substantive Orders Valid When No Judge is Identified Authorizing Entry?
- (3) Can the Circuit Clerk Deny a Motion for Judicial Review of a Clerk's Order, Without Judicial Review and Against the Circuit's Local Rules?
- (4) Can the Circuit Clerk Draft and Enter an Order to Show Cause, Initiating Attorney Discipline, Without Identifying an Authorizing Judge?
- (5) Can the Circuit Clerk Draft and Enter an Order to Show Cause, Initiating Attorney Discipline, Without Following Any of the Circuit's Due Process Requirements Mandated by the Circuit's Local Rules?
- (6) Is Entry of a Substantive Order by a Clerk, Without Identifying any Authorizing Judge or Standing Order, an Unconstitutional Delegation of Judicial Authority?

PARTIES TO THE PROCEEDING

Pursuant to this Court's Rule 20(3)(a), the following list identifies all of the names and offices or functions of every person against whom relief is sought.

Respondents are: Kelly Stephens, Clerk of the Court for the 6th Circuit; and Jeffrey Sutton, Chief Judge of the 6th Circuit.

Petitioners appearing here and before the United States Court of Appeals for the Sixth Circuit are: Tennessee licensed attorneys Van R. Irion and Russel Egli, both admitted to practice before the 6th Circuit and this Court.

RELATED PROCEEDINGS

United States District Court (E.D. Tenn.):

- In Re Van R. Irion, No. 2:24-cv-007
- Whiting v. City of Athens, et al No. 3:20-cv-054
- Whiting v. City of Athens, et al No. 3:23-cv-002
- Whiting v. City of Athens, et al No. 3:23-cv-220
- Whiting v. City of Athens, et al No. 3:23-cv-221

United States Court of Appeals (6th Cir.):

- In Re Van R. Irion, No. 25-5874; Appeal of 2:24-cv-007
- Whiting v. Athens, et al No. 25-5424; Appeal of 3:23-cv-002
- Whiting v. Athens, et al No. 24-5886; Appeal of 3:23-cv-002
- Whiting v. Athens, et al No. 24-5918; Appeal of 3:23-cv-221
- Whiting v. Athens, et al No. 24-5919; Appeal of 3:23-cv-220

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**PETITION FOR A WRIT OF MANDAMUS
and/or WRIT OF PROHIBITION**

The Petitioners respectfully petition this Court for a writ of mandamus and/or a writ of prohibition directed to the U.S. Court of Appeals for the Sixth Circuit, its Clerk, and its Chief Judge, requiring the Circuit Court to follow its own Local Rules, as promulgated pursuant to Federal Statute; to prohibit said Court's Clerk from drafting, signing, and entering substantive orders on behalf of said Court without authority to do so, without any Record of the Clerk's assertion of "by order of the Court," without identifying a judge authorizing same, and without any evidence that said Court's Judges ever reviewed the underlying substantive motions.

OPINIONS BELOW

This Petition arises primarily from an Order to Show Cause, initiating attorney disciplinary proceedings, entered sua sponte by the Clerk of the U.S. Court of Appeals for the Sixth Circuit, with no authorizing judge identified, dated September 18, 2025. (R.40, 6th Cir. Case#24-5918)(Or. entered in 6th Cir. case#s 24-5918, 24-5919, and 25-5424). Said order purportedly requires attorneys Van R. Irion and Russel Egli to "**SHOW CAUSE** why they should not be sanctioned and/or disciplined for the conduct described in this order." *Id.* (Emphasis in original). Said order fails to identify any Article III Judge authorizing its entry. To the best of Petitioners' knowledge said "order" was drafted and entered by the Clerk of said Court on her own "authority," arguably in violation of 18 U.S.C. § 505. Upon

contacting the Court, the Clerk refused to identify any judge, Rule, or standing order authorizing entry of said order to show cause. Said order violates several due process requirements set forth in the 6th Circuit's Local Rules regarding attorney discipline. Said order is reproduced at App. B, 3a-9a.

As discussed herein, this Order to Show Cause is not the only example of substantive orders entered by the 6th Circuit Clerk with no apparent judicial authorization.

JURISDICTION

This Petition is brought pursuant to 28 U.S.C. §1651(a), and this Court's Rule 20.

STATUTORY PROVISIONS INVOLVED

The All Writs Act, 28 U.S.C. § 1651(a), provides: "The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law."

18 U.S. Code § 505 - Seals of courts; signatures of judges or court officers. Provides:

Whoever forges the signature of any judge, register, or other officer of any court of the United States, or of any Territory thereof, or forges or counterfeits the seal of any such court, or knowingly concurs in using any such forged or counterfeit signature or seal,

for the purpose of authenticating any proceeding or document, or tenders in evidence any such proceeding or document with a false or counterfeit signature of any such judge, register, or other officer, or a false or counterfeit seal of the court, subscribed or attached thereto, knowing such signature or seal to be false or counterfeit, shall be fined under this title or imprisoned not more than five years, or both.

STATEMENT OF THE CASE

This case presents Record evidence that the Office of the Clerk of the 6th Circuit has feloniously usurped and asserted the authority of the Court on numerous occasions without permission of said Court. The Petitioner also presents Record evidence that 6th Circuit Court staffers have manipulated the electronic filing system to prevent notifications of certain documents filed with the Court being forwarded to ANY authorized judges.

Currently the 6th Circuit Clerk is regularly authoring and issuing substantive Court orders signed only by the Court Clerk and identifying zero Article III judges, apparently without any authority. Several of these “orders” contain errors of law significant enough to conclude that no qualified judge would authorize entry. Regarding the order to show cause discussed in the “Opinions Below” section, *supra*, the Office of the Clerk explicitly **refused** to identify any judge authorizing entry of that substantive order.

The 6th Circuit Clerk is also refusing to allow judicial review of Clerk-signed orders, in direct violation of 6th Circuit Local Rule 45(c). On several occasions Petitioners have timely objected to the Clerk's substantive denials, as is their right pursuant to 6th Circuit Local Rule 45(c), and filed motions for judicial review under said Rule. Said motions for judicial review are being DENIED *by the Clerk*, without any judicial review.

Upon contacting the Clerk's office to discuss the paradox created by these unauthorized Clerk rulings, Petitioners were told, "If you don't like it, file a motion."

The 6th Circuit Clerk asserts that said orders are entered "by order of the Court." However, the Clerk has refused to identify any standing order or other published authority granting the Clerk authority to enter substantive orders without an Article III judge's signature, and without identifying what judge authorized said order.

Most recently the 6th Circuit Clerk issued a sua sponte Order to Show Cause against the two Petitioner attorneys, without the Court's authority to enter said OSC. (Doc.40, Case#24-5918; reproduced at Appx. B, 3a-9a). Said Order to Show Cause failed to follow most of the Court's Local Rules regarding due process required for such Orders to Show Cause. *Compare* OSC *with* 6th Cir. L.R. 46(c).

Resolution of this Petition, and issuance of the requested Writs, would ensure that Constitutional authority of the Courts will not continue to be

unconstitutionally delegated to unqualified and unauthorized Court personnel. A writ from this Court is necessary to restore public confidence in the Federal Judicial system.

REASONS FOR GRANTING THE PETITION

Pursuant to this Court's Rule 20(1), this Petition should be **GRANTED** because it will aid this Court's appellate jurisdiction, because exceptional circumstances warrant the exercise of this Court's discretionary powers, and because adequate relief cannot be obtained in any other form or from any other court. Specifically:

Aid of this Court's Appellate Jurisdiction

The Petitioners here are alleging that the Clerk's Office for the 6th Circuit Court of Appeals has feloniously usurped the authority of that Court, by issuing unauthorized "court orders" without the knowledge of the judges of that Court. If, on the other hand, the judges of the 6th Circuit are aware of their Clerk's activities, then those judges have unconstitutionally delegated the authority granted to them, to unqualified Court staff, AND have failed in their duty to supervise said activities. In either case, the 6th Circuit is no longer functioning in a lawful manner.

This Court has the Constitutional authority, and duty, to supervise its lower appellate courts. Allowing the felonious abuse of authority identified herein to continue would destroy the reputation of the entire Federal Judicial Branch. If the 6th Circuit

is effectively blocking access to fair appeals, as is alleged herein, then this Court's appellate jurisdiction absolutely requires that this Court remedy the situation.

Exceptional Circumstances

It is not often that licensed officers of this Court openly accuse Federal court personnel of violating Federal criminal statutes in order to usurp justice. Should this Court refuse to take any action on this petition, it would indicate to said officers and the public in general that the Federal Judicial system can no longer fulfill its primary purpose for existence.

If Federal Courts refuse to follow their own Local Rules, and this Court fails to take appropriate actions to correct the situation, no reasonable person could trust such courts to enforce any law.¹

Relief Cannot Be Obtained in Any Other Way

The 6th Circuit Court Clerk has refused to follow 6th Circuit Local Rules, and has blocked every attempt to bring this fact to the attention of the Judges of the 6th Circuit. In other words, the Circuit Clerk has short-circuited the procedural rules

¹ Copies of this Petition have been delivered to the Department of Justice, the White House, the U.S. Ambassador to India and former White House Chief of Staff Sergio Gor, Senator Louis Gomert, Senator Rand Paul, over a dozen media agencies, the Chief Judges of every U.S. Circuit Court, and is being posted on all social media platforms possible.

intended to prevent exactly the situation reported herein.

The Petitioners herein have utilized every avenue available under the law to notify the individual Federal employees responsible for supervising the 6th Circuit Court, about these serious matters. All attempts to obtain relief have been ignored or blocked.

Petitioners, as attorney's representing parties in ongoing litigation before the Circuit, are limited by ex parte communications rules, in their ability to communicate with 6th Circuit Judges. Proper communications with said judges requires notice to opposing parties and is typically achieved via filing documents with the Circuit's Clerk. But that avenue has been blocked by said Clerk.

The 6th Circuit Clerk's activities violate that Court's Local Rule 45. That Rule establishes the types of orders the Clerk may enter without specific authorization from the Court. *Id.* The Rule explicitly requires ALL orders entered by the Clerk to include a statement that said order was entered under authority of Local Rule 45. *Id.* The instant Void OSC includes no such statement. *See* Doc.40; Case#24-5918; Appx. 3a-9a.

More importantly, the Circuit's Local Rule 45 limits the Clerk's authority to enter orders to procedural matters only. *See* 6th Cir. L.R. 45(a). Yet initiating attorney disciplinary proceedings is far from the "procedural" authority granted to the Clerk. *See* 6th Cir. L.R. 46(c).

Most importantly, access to the Circuit's judges is being blocked by the Court's Clerk. On several occasions Petitioners have received substantive orders entered by the Clerk. Petitioners timely filed objections and motions under Local Rule 45(c) for judicial review of the Clerk's orders. (Examples listed below). In several instances those motions were denied by the Clerk, with the orders failing to identify any panel or judge who purportedly reviewed said motion and authorized entry of the order denying same.

Upon receiving the Void OSC, Petitioners called the Circuit Clerk's office and asked that the Clerk identify the judge or panel that authorized entry of said OSC. The Clerk's assistant explicitly refused to identify an authorizing judge. She then added, "If you don't like it, file a motion."

In other words, the Circuit's Clerk's Office has created a perfect Catch 22, effectively preventing Petitioners from filing any motion or other documents that would actually reach a judge's desk.

Petitioners have also contacted the U.S. Administrative Office of the Courts. After speaking with at least three USAOC employees on three different occasions and leaving voice messages for several more, that Office failed to respond to the Petitioners in any way.

The only remaining way for the issues raised in this Petition to be remedied requires this Court to

exercise its supervisory authority over its lower appellate courts.

Irregularities in Clerk-Entered OSC

The purported order to show cause (Doc.40; 6th Cir. Case# 24-5918, Appx. 3a-9a; also entered in 24-5919; 25-5424) is void on its face for failing to include a signature of an Article III judge, or identify a judge authorizing entry of said order. *See* 6th Cir. Local Rule 45(a) and (b); Fed. R. App. Proc. 45; Fed.R.Civ.Proc. 77(c)(2)(d); *see also* 18 U.S.C. §505; and “unconstitutional delegation of judicial authority,” U.S. Const. Art.III §1. The purported order also fails to cite any standing order of the Court, local rule, or other authority authorizing a Court Clerk to enter an Order to Show Cause.

Additionally, the purported order has several irregularities that give the appearance that a non-attorney drafted said order. First, the Void OSC fails to follow any of the Circuit Court’s Local Rules regarding attorney discipline. 6th Circuit Local Rule 46(c)(2) requires the Court to seal any and all documents regarding attorney discipline. The Void OSC was filed publicly and is still available to the public. It was not sealed as the Circuit Court’s Rules require.

Next, 6th Circuit Local Rule 46(c)(4) establishes that only the Chief Circuit Judge may initiate attorney disciplinary proceedings. 6th Circuit Local Rule 46(c)(4)(C) requires any complaint to be either initiated by the Chief Circuit Judge, or be forwarded to the Chief Circuit Judge for review

prior to issuance of any OSC. Yet the purported OSC does not have the signature of ANY judge of the Circuit Court, let alone the Chief Judge. While 6th Circuit Local Rule 46(c)(4) allows the Court Clerk to sign an OSC at the order of the Chief Judge, such a situation still requires the Chief Judge to either initiate the OSC himself, or review a third-party complaint prior to issuing an OSC. There is zero indication in the purported OSC that either of these requirements were met, or that the Chief Circuit Judge has any knowledge of the instant OSC.

Not only does the Void OSC fail to indicate that the Chief Circuit Judge ever initiated or reviewed the Void OSC, the Circuit Court's Clerk explicitly REFUSED to identify what judge had "ordered" entry of the Void OSC, and REFUSED to identify what authority allows her to issue an OSC without identifying the specific judge or judges who "ordered" her to enter said OSC.

Next, 6th Circuit Local Rule 46(c)(4)(B) establishes the minimum information that must appear in any OSC issued by the Circuit Court. To wit, "(i) The name, address, and telephone number of the complainant;" Yet the Void OSC fails to name either a third party complainant or the Chief Judge. "(iii) Copies of all documents or other evidence that support the factual allegations contained in subsection (ii), including a copy of any rule or order of this court that is alleged to have been violated;" Yet the Void OSC was accompanied by zero copies of anything. "(iv) A statement under the penalty of perjury-at the end of the complaint-that the complainant has read the complaint and that the

facts contained there are correct to the best of the complainant's knowledge." The Void OSC does not identify the Chief Judge as initiating the disciplinary action, nor does it identify any complainant, nor does it have ANY statement signed by anyone under penalty of perjury. It also fails to have any indication that the Chief Judge reviewed or initiated the Void OSC.

Next, 6th Circuit Local Rule 46(c)(4)(C)(iii) states, "If the chief judge issues an order to show cause, the clerk will mail the following to the respondent." Note that this Rule does not state that the clerk will "enter an OSC on the ECF system." Publicly filing an OSC on the Court's ECF system, not under seal, is not the same as "the clerk will mail..." The requirement that the clerk mail an OSC is likely due to the sealed nature of such proceedings. Neither Respondent attorney received ANYTHING in the mail from the Circuit Court regarding the Void OSC.

Next, 6th Circuit Local Rule 46(c)(4)(mis-labeled in the Court's published Local Rules as a second "(4)," should be (5)), states "A respondent has 21 days from entry of the order to show cause to file a response." Yet the Clerk's Void OSC orders Respondent attorneys to file "Briefs of no more than 5,000 words are due within two weeks after the issuance of this order." No grounds, explanation, discussion, or reason of any kind is given in the Void OSC for shortening by 33% the time for Respondent's to respond. It is likely that two weeks were given because the Clerk who initiated and drafted the Void OSC was completely unaware of the

Circuit Court's Local Rules regarding attorney discipline.

Finally, regarding disturbing irregularities, the Void OSC orders the Respondent attorneys to "explain (1) who wrote the briefing in each case, (2) whether any of the briefs were ghost written in whole or in part, (3) whether generative AI was used in the drafting of these briefs, and (4) the processes that were used to cite-check each brief." These highly unusual directives reflect a total lack of understanding regarding "ghost writing" as that term is used in an attorney discipline context. Ghost writing occurs when a pro se party files a document that was written or partially written by a licensed attorney, without stating clearly on the document that it was drafted by said attorney. However, in the instant consolidated cases, there is no pro se party. It is literally impossible for either attorney Respondent to have improperly "ghost written" anything in these matters because there is no pro se party.

This shocking misunderstanding of a basic issue being asserted by the Void OSC further reflects that this Court's Chief Judge did NOT review the Void OSC before it was entered on the Court's public docket.

The Void OSC is also shocking because it reflects a complete lack of understanding of attorney-client and work product privileges. To wit, it is a violation of the privileges of the Respondent attorneys and their clients for the Circuit Court's Clerk to demand to know the details of the

Respondent attorneys' methods, work product, communications, and practices.

The ghost writing allegations also support the fact that the Void OSC is motivated by harassment of the Respondent attorneys, and reflects prohibited ex-parte communications with and within the Circuit Court. Attorney Irion was accused by another court of "ghost writing" for a pro se party, in another matter in a different court. Those allegations are still under appeal. Allegations of "ghost writing" are extremely rare. According to the Tennessee Board of Professional Responsibility, Tennessee has *never* publicly sanctioned any attorney for activities related to ghost writing.² There is no evidence in the record of *the instant appeals* that would remotely indicate "ghost writing" in the briefs cited. There is also no reason why either a Clerk or Judge of the Circuit Court would be aware of the allegations from an unrelated matter. Therefore, either the Judges of this Court and/or the Eastern District of Tennessee are communicating ex-parte with each other about the facts of the other Eastern District matter, or opposing counsel is communicating ex-parte with the Circuit Court regarding the unrelated Eastern District allegations. While another explanation may exist, the Respondent attorneys do not see what alternate explanation could lead to this Court's Clerk accusing the Respondents of "ghost writing."

All of these irregularities are shocking. If the Void OSC was actually reviewed by ANY judge, let

² Aug. 20, 2025, Ltr. from TNBPR Ethics Counsel, Laura Chastain, confirming this is available upon request.

alone ordered to be issued in its current state by the Chief Judge, then the Circuit Court is ignoring its own Local Rules. More likely, these irregularities support the fact that the Void OSC was never reviewed by the Chief Judge, or any judge.

Other Irregularities Indicating Corruption of the Circuit Clerk

The shockingly irregular order to show cause discussed herein is just the latest example of disturbing activities of Record by the 6th Circuit Clerk's Office.

1) Sua Sponte Consolidation of three cases, for purposes of judge-panel control by the Clerk, App. C.

On August 28, 2025, the Circuit Clerk sua sponte issued an order consolidating three appeals being litigated by the Petitioners. (Case 24-5919, Doc.33; Case 24-5918, Doc.31; Case 25-5424, Doc.23). The effect of this order was to limit all three appeals to one panel of Circuit judges. In other words, the Clerk reduced the number of Circuit judges reviewing Petitioner's three separate appeals from nine to three.

If the 6th Circuit was functioning normally, this change might be understandable. It would still be highly unusual, but not necessarily suspicious. However, considering all of the other irregularities discussed herein, this sua sponte action of the Clerk becomes truly suspicious. In any covert activity, limiting the number of individuals involved greatly reduces the risk of discovery. If any Circuit judges

turn out to be in league with the Clerk regarding these illegal activities, it is much more likely that three judges may be involved than it is nine judges are involved.

Again, these facts alone may not prove any intentional misbehavior, but taken in context it is yet another example of suspicious and unusual behavior by the Clerk. As criminal investigators often say, there are no coincidences when it comes to criminal activity.

2) List of other orders not identifying judicial authorities

In addition to the Clerk-entered sua sponte Order to Show Cause discussed herein, all of the substantive orders listed below were entered by the Clerk without identifying any authorizing Judge. As this Court can see, these motions Denied by the Clerk were substantive motions.

- a. Case 24-5918:
 - i. Doc.27-2, Clerk-Or. Denying Mtn. Stay
 - ii. Doc. 45, Clerk-Or. denying Mtn. to Strike
 - iii. Doc.48-2, Clerk-Or. Denying L.R.45(c) Mtn. for Judicial Review
- b. Case 24-5919:
 - i. Doc.27-2, Clerk-Or. Denying Mtn. to Stay
 - ii. Doc. 45, Clerk-Or. Denying Mtn. to Strike
- c. Case 25-5424:

- i. Doc.30-2, Clerk-Or. Denying Rule 48 Mtn. to Appt. Spc. Master, Denying Mtn. for Ext. Time, and Denying Rule 10 Mtn. to Correct the Record
- ii. Doc.36; October 29, 2025, Clerk Order Denying Petitioner's substantive Motion to Strike Appellees' Brief in Response to OSC (Doc.34)

It should be noted that the unauthorized OSC entered by the Circuit Clerk was entered only two days after that Clerk denied Petitioners' Rule 48 Motion to appoint a special master to investigate allegations that the Clerk for the Eastern District of Tennessee had unlawfully deleted Record documents and scrubbed metadata from Record documents.

3) Clerk Locking Documents (1st Amd. Violation)

Further supporting a reasonable suspicion of unlawful activity, the 6th Circuit Clerk recently locked Petitioner's motion to strike Appellee's "Response" to the OSC discussed herein. (Doc.44, Case#24-5918; Appx. 29a-35a). The next day the Clerk entered an order denying said motion. (Doc.45 Appx. 1a-2a). Again, no Article III judge is identified in said order. *Id.* Petitioners filed a motion for judicial review under 6th Circuit Local Rule 45(c). (Doc.46; Appx. 21a-28a). The Clerk locked said motion and notified Petitioners that their filing "requested the wrong relief." *See* Docket entry 46. Petitioners responded with a motion objecting to the Clerk-order and again demanding judicial review. (Doc.47; Appx. 16a-20a). That motion explained that the change "requested" by the Clerk would

substantively change the nature of the motion, and would change the standard of review. *Id.* The Clerk denied that motion as well. (Doc.48-2; Appx. 12a-15a). Again, said denial of judicial review failed to identify any Article III judge. *Id.*

The First Amendment to the United States Constitution makes it unlawful for any government employee to block access to any United States Court. (Right to petition for redress of grievances). Federal Rule of Appellate Procedure 25(a)(4) codifies this law into Court Rule, stating in its entirety: “Clerk’s Refusal of Documents. The clerk must not refuse to accept for filing any paper presented for that purpose solely because it is not presented in proper form as required by these rules or by any local rule or practice.”

While “locking” a document in the ECF system may not constitute “refusal” to file, it has the same effect. Petitioners reasonably believe that the Clerk “locked” said documents for the specific purpose of preventing automatic notification of said document to Circuit Judges. This is supported by the Clerk’s order denying Petitioner’s motion to unlock said document. (Doc.48-2; Appx. 12a-15a). Again, the Clerk refused to allow judicial review of a Clerk-order, as is guaranteed by 6th Circuit Local Rule 45(c). The effect of the Clerk’s violation of Local Rule 45(c) also results in a violation of Federal Rule of Appellate Procedure 25(a)(4), and amounts to a First Amendment violation.

4) Inaccessible/Missing Docket Items

Many of the documents available via the Circuit Court's ESC System link to documents with different document numbers than are identified on the docket. For example, when clicking the docket link for document 27 in case number 24-5918, the document comes up as a docket number of "27-2." There is no indication in the docket or on the document as to why the link to document, "27," reveals document "27-2." No "document 27" can be accessed. Document 27-2 is the Clerk-signed order denying Petitioner's substantive motion to stay. That order fails to identify any Article III judge. *See* Case# 24-5918 at Doc. 27-2.

Similarly, on October 28, 2025, Petitioners filed a substantive motion to strike. (Doc.44). *The next day* the Clerk entered an order denying Petitioner's substantive motion. (Doc.45). Again, no Article III judge is identified as authorizing said order. *See Id.* Petitioners filed a timely motion for judicial review under 6th Circuit Local Rule 45(c). (Doc.46). The Clerk locked that motion, demanding that Petitioners change the "relief requested." Despite the fact that such a demand by the Clerk is in direct violation of Federal Rule of Appellate Procedure 25(a)(4), the Petitioners changed the relief requested and re-filed, requesting that their initial motion be unlocked. *See* Doc. 47.³ The Clerk denied Petitioner's motion to unlock and for judicial review.

³ That motion appears on the docket as number 47, but links to "Document 47-1." No document 47 can be accessed from the Court's ECF System.

(Doc. 48-2). Again, no Article III judge is identified as authorizing said order. *Id.*

While Petitioners do not have sufficient information about the 6th Circuit's internal operating procedures to be certain of this conclusion, it is not unreasonable to believe that entry into the Circuit's ECF system of docket numbers with a dash would avoid triggering automatic notices to judges or other Circuit staff. Again, while Petitioners currently lack sufficient information about the 6th Circuit's internal operating procedures to be certain of this conclusion, it would explain an otherwise strange and unexplained fact: Why are so many of the questionable Clerk-orders denying judicial review entered as attachments or exhibits, rather than primary docket entries?

The Circuit's ECF system, like other electronic court filing systems, automatically notifies counsel and parties upon entry of certain documents into said system. Petitioners reasonably assume that the Circuit Court's ECF system also includes similar programming to automatically notify Circuit staff outside of the Clerk's Office (such as assigned judges) upon entry of specific activities into the ECF system. A Clerk with knowledge of how that notification system works could avoid certain entries in favor of alternate entries, in order to avoid said automatic notifications to Court judges. This simple explanation fits and explains many strange 6th Circuit Clerk ECF entries.

5) Use of Burner Phones for Official Court Business

In approximately May of 2025 an assistant Clerk for the 6th Circuit verbally informed Petitioner Egli that said Clerk was using, and regularly used, a disposable phone (burner phone) for official Circuit Court business. While this fact, alone, may not be actionable and may not violate any rules or laws, it certainly adds to the pile of oddities that should reasonably raise the proverbial eyebrow. It leads, at a minimum, to the question: What legitimate activity would be improved or simplified by the Clerk's Office using burner phones for official business, rather than using phones which can be easily tracked and connected with a specific user? It is well understood that criminals use burner phones to obscure their criminal activities.

Unconstitutional Delegation of Judicial Authority

The 6th Circuit's Local Rule 45 would be constitutional, if it was being enforced as written. Unfortunately, the current practice of the Circuit Clerk entering substantive decisions, and then refusing to allow judicial review of those decisions, is a clear and undisputable usurpation of Article III authority by the Circuit's Clerk. *United States v. Johnston*, 258 F.3d 361, 372 (5th Cir. 2001)(finding that a delegation of power to a magistrate judge to decide a motion to vacate, set aside, or correct sentence "violates Article III of the Constitution"); *TPO, Inc. v. McMillen*, 460 F.2d 348, 359–60 (7th Cir. 1972) (invalidating a delegation to a magistrate

to decide motions to dismiss and motions for summary judgment on the grounds that such a delegation “amounted to little less than an abdication of the judicial function depriving the parties of a trial before the court on the basic issues involved in the litigation” (*quoting La Buy v. Howes Leather Co.*, 352 U.S. 249, 256 (1957))).

Precedent on this matter makes clear that if an Article III judge reviews and approves of legal decisions made by non-judges, then the delegation of authority is constitutional. However, this is true ONLY because the ultimate decision lies with an authorized Article III judge. *United States v. Taylor*, 92 F.3d 1313, 1326–27 (2d Cir. 1996) (“In order to meet the constitutional requirements of Article III, however, de novo review by the district judge of the magistrate’s jury selection decisions must be available if requested by one of the parties.”); *Bowman v. Bordenkircher*, 522 F.2d 209, 210 (4th Cir. 1975) (upholding a delegation to a magistrate to make recommendations on habeas corpus petitions because the judge “review[ed] the entire record before the district court, consider[ed] the magistrate’s report, and satisf[ied] himself that the recommended disposition [was] fair and proper”).

In the instant case the 6th Circuit’s Local Rule 45 includes an explicit right of a party to demand judicial review of any order entered by the Clerk, substantive or not. *See* 6th Cir. L.R. 45(c). Unfortunately the 6th Circuit Clerk is currently refusing to forward motions for judicial review to authorized judges, and is instead denying such motions out of hand and without judicial review.

This practice is being abused, and is clearly unconstitutional. It must be stopped.

CONCLUSION

For the reasons discussed herein, the Petitioners request that this Petition be **GRANTED**, and that this Court issue an appropriate Writ of Mandamus and/or Prohibition, requiring the 6th Circuit Court to **STRIKE** the Clerk-drafted Order to Show Cause directed to the Petitioners; **STRIKE** any and all other substantive orders entered by the Circuit Court Clerk in **ALL** ongoing matters before said Circuit Court where said orders fail to identify at least one authorized Article III Judge responsible for entry of said orders; **STRIKE** any and all such orders in **ALL** matters wherein the Petitioner-attorneys herein represented a party in the 6th Circuit Court, regardless of whether said matters are currently before the Circuit Court, or have been previously resolved; **RECONSIDER** or **REINSTATE** all such previously-resolved appeals wherein Petitioners represented a party in the 6th Circuit and an unauthorized Clerk order was entered; **PROHIBIT** the 6th Circuit Clerk from entering any such unauthorized substantive orders in the future; **MANDATE** that all substantive orders entered by the 6th Circuit identify at least one authorizing Article III Judge; **MANDATE** that judges of the 6th Circuit Court of Appeals *actually review* **ALL** substantive orders before they are entered by the Clerk; and **REQUEST** that the U.S. Department of Justice appoint a Special Counsel to investigate possible felonious abuse of authority by 6th Circuit Court staff, and any other individuals to

which probable cause is found sufficient to believe that criminal abuse of authority has occurred within the Federal Court System.

Respectfully submitted,

s/Van R. Irion

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