

No. 21-1786

In the United States Court of Appeals for the Sixth Circuit

TIMOTHY KING, *ET AL.*,
Plaintiffs,

GREGORY J. ROHL; BRANDON JOHNSON; HOWARD KLEINHENDLER; SIDNEY POWELL;
JULIA HALLER; SCOTT HAGERSTROM,
Interested Parties - Appellants,

v.

GRETCHEN WHITMER; JOCELYN BENSON; CITY OF DETROIT, MI,
Defendants-Appellees.

ON APPEAL FROM U.S. DISTRICT COURT FOR THE
EASTERN DISTRICT OF MICHIGAN, CIVIL ACTION
NO. 2:20-CV-13134, HON. LINDA V. PARKER

**APPELLANTS' MOTION TO ENFORCE THIS COURT'S
STAY AND RECALL MANDATE**

Sidney Powell, Esq.
3831 Turtle Creek Blvd, Ste 5B
Dallas, TX 75219
Ph: 214-707-1775
Email: sidney@federalappeals.com

Counsel for Appellants

INTRODUCTION

Pursuant to Fed. R. App. P. 27, appellants Gregory J. Rohl; Brandon Johnson; Howard Kleinhendler; Sidney Powell; Julia Haller; and Scott Hagerstrom (collectively, “Appellants”) respectfully move this Court to enforce the express terms of its original stay of its decision in its Order dated August 11, 2023, to stay the mandate “to allow appellants time to file a petition for a writ of certiorari, and thereafter until the Supreme Court *disposes of the case.*” Order at 1 (emphasis added). Although the Supreme Court denied Appellants’ petition for writ of certiorari by Order dated February 20, 2024,¹ Appellants timely petitioned the Supreme Court for rehearing on March 18, 2024. Appellants’ petition for rehearing raises significant issues since this Court’s decision that warrant the Supreme Court’s consideration. *Patterson v. Haskins*, 470 F.3d 645, 662 (6th Cir. 2006) (new controlling decisions can be a basis to recall mandate).

Appellants’ petition for rehearing was distributed on March 27, 2024—along with a supplemental brief just filed on the Supreme Court’s recent decision on mootness²—for consideration at the Justices’ conference on April 12, 2024. Accordingly, the Supreme Court has not yet “disposed” of Appellants’ “case.”

¹ The Supreme Court’s docket for Appellants’ case is available at <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/23-486.html> (last visited Mar. 27, 2024).

² *FBI v. Fikre*, 2024 U.S. LEXIS 1379 (U.S. Mar. 19, 2024) (No. 22-1178).

Apparently, an administrative error caused issuance of this Court's mandate sooner than the Court's Order provided, and its mandate should be recalled in accord with the terms of the original stay.

Clerical error is one reason that this Court has found to recall a mandate. *See, e.g., Patterson*, 470 F.3d at 662; *BellSouth Corp. v. FCC*, 96 F.3d 849, 851-52 (6th Cir. 1996). Moreover, the defendants-appellees would suffer no prejudice vis-à-vis expectations of finality because Appellants served them with the petition for rehearing on March 18, 2024, and no other action has been taken.

CONCLUSION

For these reasons, Appellants request that the Court enforce its original Order of August 11, 2023, and recall the erroneously issued mandate.

Dated: March 28, 2024

Respectfully submitted,

/s/ Sidney Powell

Sidney Powell, Esq.
3831 Turtle Creek Blvd, Ste 5B
Dallas, TX 75219
Ph: 214-707-1775
Email: sidney@federalappeals.com

Counsel for Appellants

CERTIFICATE OF COMPLIANCE

1. The accompanying motion complies with the type-volume limitation of FED. R. APP. P. 27(d)(2)(A) and Circuit Rule 27-1(1)(d) because the motion contains 338 words, including footnotes, but excluding the parts of the motion exempted by FED. R. APP. P. 32(a)(7)(B)(iii).

2. The accompanying motion complies with the typeface and type style requirements of FED. R. APP. P. 27(d)(1)(E) because the motion has been prepared in a proportionally spaced typeface using Microsoft Word 365 in Times New Roman 14-point font.

Dated: March 28, 2024

Respectfully submitted,

/s/ Sidney Powell

Sidney Powell, Esq.
3831 Turtle Creek Blvd, Ste 5B
Dallas, TX 75219
Ph: 214-707-1775
Email: sidney@federalappeals.com

Counsel for Appellants

CERTIFICATE OF SERVICE

I hereby certify that on March 28, 2024, I electronically filed the foregoing motion with the Clerk of the Court for transmittal of a Notice of Electronic Filing to the participants in this appeal who are registered CM/ECF users.

/s/ Sidney Powell

Sidney Powell, Esq.
3831 Turtle Creek Blvd, Ste 5B
Dallas, TX 75219
Ph: 214-707-1775
Email: sidney@federalappeals.com

RETRIEVED FROM DEMOCRACYDOCKET.COM