

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

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APR 23 2019

U.S. District Court
Middle District of TN

JESSIE D. McDONALD,
Petitioner,

)

)

v.

)

) Case Nos. 3:05-cv-0243

)

3:19-cv-00072

PAUL G. SUMMERS, et al.,
Respondant(s).

)

) Judge Aleta A. Trauger

)

MOTION FOR STAY PENDING APPEAL

Petitioner, Jessie D. McDonald, Pro se respectfully moves the Court to suspend or stay further enforcement of the judgments in these cases, pending the final disposition of the appeal, pursuant to Rules 62(a) of Federal Rules of Civil Procedure, on grounds, the judgment on appeal has created a conflict with specific portions of the federal rules of civil procedure and in the interest of justice, petitioner asks the court for a stay of proceedings.

Reasons why stay is necessary

In the order dated, April 12, 2019, the court denied the Motion for Leave to file the Motion for Relief from Judgment and stated the reasons as "untimely". However, if the Court examines that document, it can be clearly seen that it is based on Rule 60(b)(4), of FRCP, which is not restricted to a time period since a void judgment is binding on no one. Void judgment is one where court lacked personal or subject matter jurisdiction or entry of order violated due process. *Holstein v. City of Chicago*, 803 F. Supp. 205, reconsideration denied 149 F.R.D. 147, affirmed 29 F. 3d 1145 (N.D. Ill, 1992).

With respect to the Motions for Leave to Amend the Petition for Writ of Error Coram Nobis and Petition for Extraordinary Relief, Rule 15 of FRCP states that the court should freely give leave when justice so requires.

Justice Requires

The amendment to the original application is necessary to give the specifics that justify the court entertaining a complaint alleging 'ongoing civil disabilities' and the authority given by the United States Supreme Court to revisit state criminal convictions under the All Writs Statute, 28, USC §1651(a).

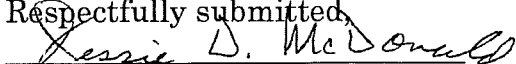
In Case No. 3:19-cv-00072 against the Federal Communications Commission and the Tennessee Election Commission, the court considered the application for extraordinary relief as a complaint against these parties. In that particular case, the all writs statute was not a qualified statute for the court to review a complaint and an amendment is necessary, in the interest of justice, to include the Voting Rights Act, and its amendments, and ask for injunctive relief under the all writs statute against the governmental agencies; (and remove the Civil Rights Act of 1964, which was included in error in the Motion to Amend) to save that cause of action.

Unless a substantial reason exists to deny leave to amend, the discretion of the district court is not broad enough to permit denial and consistent with the liberal standard that applies to motions to amend under Rule 15(a)(2), FRCP, the Court should have GRANTED appellant's motion leave to file the Motion for Relief from Judgment and Motions to Amend the two initial pleadings in both cases.

The trial judge was in error for holding the statute of limitations prevented an amendment. Rule 15(b)(1) allowed the court to authorize an amendment. Rule 15(2)(c)(1) allowed the amendment to relate back to the date of the original pleading as shown in section (A), even after judgment has been entered.

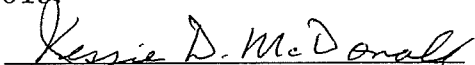
There was no justifiable reason issued by the trial judge to deny leave of court to seek relief from the void judgment that has placed restrictions on appellant and denying appellant of having access to the district court after imposing monetary sanctions under the fraudulent and void judgment; and refusing to allow leave to file the Motion for Relief from Judgment and the Two Motions for Leave to Amend the original complaints.

ACCORDINGLY, it is for these reasons Petitioner asks the court to suspend or stay further enforcement of the judgment imposing sanctions, pending a final disposition on the pending appeal.

Respectfully submitted,

Dr. Jessie D. McDonald, Ph. D.
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Nashville, Tennessee 37206
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Certificate of Service

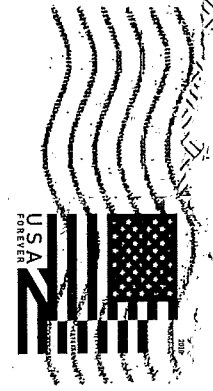
The undersigned hereby certify that a copy of the attached Motion for Stay Pending Appeal, was served upon Herbert H. Slatery, III, Tennessee Attorney General, at P.O. Box 20207, Nashville, TN 37202-0207; and Solicitor General, U.S. Department of Justice, at 950 Pennsylvania Ave., NW, Room 5616, Washington, D.C. 20530-0001, by depositing the same in the U.S. Mail, with the proper first class postage affixed thereon, on this 18th day of April, 2019.


Dr. Jessie D. McDonald, Ph. D.

P.O. Box 6064
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NASHVILLE TN 370

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