

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 20-2948

SCOTT PHILLIPS, Individually and as Guardian
Ad Litem on behalf of S.P., B.P., and K.P.,
Appellant

v.

ARCHDIOCESE NEWARK; et al.

(D.N.J. No. 2-18-cv-12207)

PRESENT: KRAUSE, BIBAS, and RENDELL, Circuit Judges

JUDGMENT ORDER

The above-captioned case has been tentatively scheduled for submission to this merits panel on September 13, 2022. Appellant's motion for leave to file a supplemental appendix, Appellees' opposition to the motion, and Appellant's reply along with the parties' briefs have been forwarded to the merits panel for review and disposition.

The Court construes Appellant's motion as a motion to expand the record, or, in the alternative, to remand for additional fact-finding. Appellant fails to establish the requisite "exceptional circumstances," for expanding the record, which we examine by asking "(1) whether the proffered addition would establish beyond any doubt the proper resolution of the pending issue; (2) whether remanding the case to the district court for consideration of the additional material would be contrary to the interests of justice and the efficient use of judicial resources; and (3) whether the appeal arose in the context of a habeas corpus action." *Acumed LLC v. Advanced Surgical Servs., Inc.*, 561 F.3d 199, 226 (3d Cir. 2009) (quoting *In re Cap. Cities/ABC Inc.'s Application for Access to Sealed Transcripts*, 913 F.2d 89, 97 (3d Cir. 1990)).

Nonetheless, the additional documentation to which Appellant points raises sufficiently significant issues for the District Court's disposition of the case and grant the alternate form of relief. We do not find it necessary to defer our decision until September 13, 2022. Accordingly, it is hereby ORDERED and ADJUDGED that the judgment of

the District Court entered August 24, 2020 is hereby VACATED and REMANDED for additional fact-finding.

By the Court,

s/ Cheryl Ann Krause
Circuit Judge

Dated: July 18, 2022

ATTEST:

s/Patrica S. Dodszuweit
Clerk