

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
TENNESSEE, WESTERN DIVISION

Mid-America Apartment Communities, Inc. v. Dennis Michael
Philipson

Mid-America Apartment Communities · No. No. 2:23-cv-2186-SHL-cgc · Decided May 12, 2026

SUMMARY

The United States District Court for the Western District of Tennessee denied Defendant Dennis Michael Philipson’s renewed motion to correct and settle the appellate record, require filing or lodging of materials allegedly used in the proceedings, and obtain an indicative ruling under Federal Rule of Civil Procedure 62.1. The court held that the requested materials were not material to the pending appeals and that Federal Rule of Appellate Procedure 10(e) could not be used to introduce new evidence or supplement the record with materials not previously before the district court.

CASE DETAILS

COURT	United States District Court for the Western District of Tennessee, Western Division
WRITING FOR THE COURT	Sheryl H. Lipman
JURISDICTION	United States District Court for the Western District of Tennessee, Western Division
DECIDED	May 12, 2026
DOCKET	No. 2:23-cv-2186-SHL-cgc
DISPOSITION	other
PROCEDURAL POSTURE	The district court considered the defendant's renewed motion to correct and settle the appellate record, require the plaintiff to file or lodge discovery and other materials allegedly used in the proceedings, or obtain an indicative ruling under Federal Rule of Civil Procedure 62.1.
PRECEDENTIAL VALUE	Unpublished district-court order; persuasive authority only and not generally precedential.
PARTIES	Dennis Michael Philipson v. Mid-America Apartment Communities, Inc.

TOPICS

appellate procedure

civil procedure

default judgment

sanctions

remedies

PRACTICE AREAS

Civil procedure

Appellate procedure

Trademark litigation

Post-judgment enforcement

QUESTIONS PRESENTED

1. Whether Federal Rule of Appellate Procedure 10(e) authorized the district court to supplement or correct the appellate record with subpoenas, discovery materials, credit-card-related documents, and a sworn declaration that were not shown to have been before the district court or relied upon in entering judgment.
2. Whether Federal Rule of Civil Procedure 5(d)(1)(A) authorized the district court to require filing or lodging of discovery materials in the circumstances presented.
3. Whether an indicative ruling under Federal Rule of Civil Procedure 62.1 was necessary or appropriate.

HOLDINGS

1. Rule 10(e) does not permit a party to supplement the appellate record with new evidence or materials that were not before the district court and were not omitted or misstated by error or accident.
2. A motion to correct or supplement the record should be denied when the movant fails to demonstrate that the proposed materials are material to the appeal.
3. Rule 5(d)(1)(A) does not provide a basis to compel filing or lodging of discovery materials where the movant does not identify discovery requests used in the proceeding that should have been filed and seeks materials that were already provided or were not part of the district-court record.
4. An indicative ruling was unnecessary because Rule 10(e) permitted the district court to address record corrections before or after the record was forwarded.

KEY QUOTATIONS

“Rule 10(e) “does not allow parties to introduce new evidence in the court of appeals.”” (PageID 8674)

“the purpose of amendment under [Rule 10] is to ensure that the appellate record accurately reflects the record before the District Court, not to provide this Court with new evidence not before the District Court, even if the new evidence is substantial.” (PageID 8675)

“A party may not, as Mr. Philipson seeks to do, “by-pass the fact-finding process of the lower court and introduce new facts in brief on appeal.”” (PageID 8676)

FACTUAL BACKGROUND

The case involved prior findings that Philipson had infringed MAA's trademarks, committed credit-card-related misconduct, failed to participate in litigation and discovery, and violated court orders. The court had entered default judgment, a permanent injunction, and a \$623,964.84 monetary judgment, all of which were final after Sixth Circuit review. Philipson sought to add third-party subpoenas, subpoena-related materials, credit-card and

damages documents, and a sworn declaration to the appellate record, asserting that those materials were material to pending appeals.

PROCEDURAL HISTORY

The district court previously entered default judgment, a permanent injunction, and a monetary judgment against Philipson. The Sixth Circuit denied one appeal as untimely and later affirmed the judgment; the judgment and permanent injunction became final. Philipson subsequently filed and withdrew an earlier motion to correct the record, filed an amended motion that was denied as moot, appealed that denial, and then filed the renewed motion addressed here. The district court denied the renewed motion without prejudice to seeking relief under Federal Rule of Appellate Procedure 10(e)(2)(C) and (e)(3) in the Sixth Circuit.

DISPOSITION

other

REMAND INSTRUCTIONS

The motion was denied without prejudice to Philipson seeking to correct or modify the record under Federal Rule of Appellate Procedure 10(e)(2)(C) and (e)(3) in the Sixth Circuit.

CASES CITED

- United States v. Coker, 23 F. App'x 413, 415 (6th Cir. 2001)
- Abu-Joudeh v. Schneider, 954 F.3d 842, 848 (6th Cir. 2020)
- United States v. Barrow, 118 F.3d 482, 487-88 (6th Cir. 1997)
- Adams v. Holland, 330 F.3d 398, 406 (6th Cir. 2003)
- Inland Bulk Transfer Co. v. Cummins Engine Co., 332 F.3d 1007, 1012 (6th Cir. 2003)
- Sovereign News Co. v. United States, 690 F.2d 569, 571 (6th Cir. 1982), cert. denied, 464 U.S. 814 (1983)
- Vinton v. CG's Prep Kitchen & Cafe, 2010 WL 1416874, at *1 (W.D. Mich. Apr. 1, 2010)