

CAPITAL CASE

No. 17-5940

**In The
Supreme Court of the United States**

MICHAEL EUGENE SAMPLE,

Petitioner,

vs.

STATE OF TENNESSEE,

Respondent.

On Petition For Writ Of Certiorari
To The Tennessee Court of Criminal Appeals,
Western Division

PETITION FOR REHEARING

Paul R. Bottei
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Michael Sample has petitioned this Court to grant certiorari to consider the constitutionality of the death penalty under the Eighth and/or Fourteenth Amendments. *See* Petition, p. i. In his reply, Michael Sample noted that in *Hidalgo v. Arizona*, U.S. No. 17-251, this Court is considering Eighth Amendment challenges to the death penalty, like the Eighth Amendment challenge raised by Michael Sample.

This Court rescheduled *Hidalgo* once, and after considering the *Hidalgo* petition at its December 1, 2017, conference, this Court has now called for the record (on December 6, 2017).

Given the identity of issues between *Hidalgo* and *Sample*, this Court should hold Michael Sample's petition for rehearing pending the disposition of *Hidalgo*. Should this Court grant certiorari in *Hidalgo*, this Court should grant Michael Sample's petition for rehearing, vacate the order denying certiorari, grant his petition for writ of certiorari, and then vacate and remand for further proceedings in light of *Hidalgo*.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

I certify that a copy of this petition for rehearing was served upon counsel for Respondent, James Gaylord, P. O. Box 20207, Nashville, Tennessee 37202 this the 8th day of December, 2017.



Paul R. Bottei

CERTIFICATE

I certify that this petition for rehearing complies with United States Supreme Court Rule 44.2, is restricted to grounds specified by that rule, and is presented in good faith and not for delay.

A handwritten signature in cursive script, reading "Paul R. Bottei".

Paul R. Bottei

