

SUPREME COURT OF THE UNITED STATES OFFICE OF THE CLERK
WASHINGTON D.C. 20543-0001

JOHN DAVID WILSON JR
PETITIONER, APPELLANT

CASE NO: 17-15641

DATE: DEC 1, 2018

VERSUS

JONES, SEC. DEPT. OF CORR. ET AL
RESPONDENT, APPELEE

PETITION TO FILE THE PETITION OUT-OF-TIME

COMES NOW THE PETITIONER JOHN DAVID WILSON JR, IN PROPER PERSON
(PRO-SE), PURSUANT TO, SUPREME COURT RULES, RULE 13, (3). THAT I FILED A
TIMELY MOTION FOR REHEARING, AND THE ELEVENTH CIRCUIT (REFERRED HENCEFORTH
AS- 11th CIR.) AND A DENIAL OF THIS REHEARING WAS ISSUED ON JUNE 6, 2018.

THEN, I FILED A MOTION TO RECALL THE MANDATE TIMELY. WHERE THE 11th
CIR. INTERPRETED AS A SECOND MOTION FOR REHEARINGS ON, AND DENIED THIS
TIMELY MOTION ON AUG. 8, 2018.

ON OCT 24, 2018. I FILED A PRAYERFULLY TIMELY WRIT OF CERTIORARI
(CERT), TO THE U.S. SUPREME COURT, (SUPREME COURT). IN THE PRAYER FOR
RELIEF OF A ACTUALLY INNOCENCE MAN, TO RECIEVE RELIEF FROM A VIOLAT
CONVICTION.

THE PRINCIPLES OF EQUITABLE TIMING MUST APPLY DUE TO, PLEASE SEE,
HOWARD VS FLORIDA, WHICH IN PART STATES, ("1) THAT HE HAS BEEN PURSUING
HIS RIGHTS DILIGENTLY; 2) THAT SOME EXTRAORDINARY CIRCUMSTANCE STOOD IN
HIS WAY AND PREVENTED TIMELY FILING).

RESPECTFULLY SUBMITTED

JOHN DAVID WILSON JR #0-21920

ZEPHYRHILLS CORRECTIONAL INSTITUTION

PROVIDED TO 239 GAO BLVD
ZEPHYRHILLS FL 33541-9201

ON 12/16/18
FOR MAILING (813) 732-5521

RECEIVED

DEC 13 2018

OFFICE OF THE CLERK
SUPREME COURT, U.S.

I

HISTORY OF THE MOTION

- 1) ON JUNE 06, 2018, THE 11th CIR. DENIED MY MOTION FOR REHEARING OF MY 32254; PLEASE SEE, EXHIBIT (EX), "A" 11th CIR. DENIAL OF REHEARING AND DENIAL TO ISSUE A CERTIFICATE OF APPEALABILITY, (COA),
- 2) ON OR ABOUT JUNE 10, 2018. I FILED A MOTION TO RECALL THE MANDATE, DUE TO A STRONG SHOWING OF ACTUAL INNOCENCE.
- 3) ON OR ABOUT AUG. 8, 2018, THE 11th CIR. DENIED THIS MOTION TO RECALL THE MANDATE. PLEASE SEE, EX "B" 11th CIR, RETURNED UNFILED: MOTION FOR RECONSIDERATION, DUE TO BEING FILED BEYOND THE 21 DAYS.
- 4) ON OR ABOUT OCT 24, 2018. I FILED A PRAYFULLY TIMELY WRIT OF CERTIORARI (CERT.); PLEASE SEE EX "C" SUPREME COURT - NOTICE OF OUT-OF-TIME.
- 5) ON OR ABOUT NOV 9, 2018, THE SUPREME COURT NOTIFIED ME THE THIS WRIT OF CERT. IS OUT-OF-TIME; PLEASE SEE, EX "E" SUPREME COURT - NOTICE OF OUT-OF-TIME.
- 6) ON OR ABOUT NOV 13, 2018. I FILED A LETTER TO THE CLERK EXPLAINING 1) DILIGENCE; 2) A EXTRAORDINARY CIRCUMSTANCES FOR FILING MY WRIT OF CERT UNTIMELY; PLEASE SEE, EX "D" LETTER TO THE HONORABLE, JACOB LEVITAN.
- 7) ON OR ABOUT DEC 1, 2018, I RECEIVED, EX "E" CLERK, PERMISSION TO FILE OUT-OF-TIME MOTION.
- 8) ON DEC 6, 2018, I FILE THIS OUT OF TIME MOTION IS PRAYER THAT THIS HONORABLE COURT GRANT DILIGENCE, AND A EXTRA ORDINARY CIRCUMSTANCE THAT STOOD IN MY WAY OF FILING UNTIMELY.

II

ARGUMENT

THE EQUITABLE PRINCIPLES OF "EQUITABLE TOLLING" MUST APPLY TO MY UNTIMELY WRIT OF CERT.

THAT WHERE IN, HOLLAND, 19. I'VE BEEN DILIGENT, AND A EXTRA ORDINARY CIRCUMSTANCES OF RELYING ON, EX "B" 11th OR, RETURNED UNFILED: MOTION FOR RECONSIDERATION. TOLLED THE TIME TO FILE WRIT OF CERT.

III

LEGAL ARGUMENT

IN SUPREME COURT RULES 3 13 (3) IN PERTAINATE PART STATES,

BUT IF A PETITION FOR REHEARING IS TIMELY FILED IN THE LOWER COURT BY ANY PARTY, OR IF THE LOWER COURT APPROPRIATELY ENTERTAINS AN UNTIMELY PETITION FOR REHEARING OR VIA SPONTE CONSIDERS REHEARING, THE TIME TO FILE THE PETITION FOR A WRIT OF CERTIORARI FOR ALL PARTIES (WHETHER OR NOT THEY REQUESTED REHEARING OR JOINED IN THE PETITION FOR REHEARING) RUNS FROM THE DATE OF THE DENIAL OF REHEARING OR, IF REHEARING IS GRANTED, THE SUBSEQUENT ENTRY OF JUDGMENT.

IT IS FAIR AND REASONABLE TO CONCLUDE THAT THE EQUITABLE PRINCIPLES OF EQUITABLE TOLLING APPLY, AND I SHOULD BE GRANTED LEAVE, INDULGENCE TO FILE THIS OUT OF TIME MOTION.

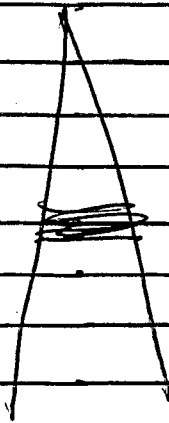
FOR FURTHER DETAIL PLEASE SEE, EX "D" TO THE HONORABLE, JACOB LEVITAN.

IV

RELIEF REQUEST

I PRAY FOR RELIEF THAT THE SUPREME COURT GRANTS THIS OUT OF TIME MOTION, DUE TO A DENIAL WILL HAVE UNFORESEEN CONTINGENCES OF A ACTUAL INNOCENCE MAN BEING INCARCERATED FOR THE REST OF HIS LIFE.

EXHIBIT



||th CIR DENIAL OF RENEWALING

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 17-15641-J

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

JUN 06 2018

David J. Smith
Clerk

JOHN DAVID WILSON, JR.,

Petitioner-Appellant,

versus

SECRETARY, DEPARTMENT OF CORRECTIONS,

Respondent-Appellee.

Appeal from the United States District Court
for the Middle District of Florida

Before: WILLIAM PRYOR and JORDAN, Circuit Judges.

BY THE COURT:

John David Wilson, Jr. has moved for rehearing *en banc* following this Court's denial of his motions for a certificate of appealability and for leave to proceed *in forma pauperis* in his appeal from the district court's dismissal of his petition for a writ of habeas corpus, 28 U.S.C. § 2254. We construe Wilson's motion for rehearing as a motion for reconsideration, pursuant to 11th Cir. R. 22-1(c) and 27-2, of this Court's order dated March 16, 2018. Upon review, the motion for reconsideration is DENIED because Wilson has offered no new evidence or arguments of merit to warrant relief.

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

June 06, 2018

John David Wilson Jr.
Zephyrhills CI - Inmate Legal Mail
2739 GALL BLVD
ZEPHYRHILLS, FL 33541-9701

Appeal Number: 17-15641-J
Case Style: John Wilson, Jr. v. Secretary, Department of Corr.
District Court Docket No: 8:16-cv-01369-JDW-AAS

This Court requires all counsel to file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause.

The following action has been taken in the referenced case:

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Davina C. Burney-Smith, J
Phone #: (404) 335-6183

MOT-2 Notice of Court Action

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 17-15641-J

JOHN DAVID WILSON, JR.,

Petitioner-Appellant,

versus

SECRETARY, DEPARTMENT OF CORRECTIONS,

Respondent-Appellee.

Appeal from the United States District Court
for the Middle District of Florida

ORDER:

John David Wilson, Jr., moves for a certificate of appealability in order to appeal the dismissal of his *pro se* petition for a writ of habeas corpus under 28 U.S.C. § 2254. The motion for a certificate of appealability is DENIED because he has failed to make a substantial showing of the denial of a constitutional right. *See* 28 U.S.C. § 2253(c)(2). His motion for leave to proceed on appeal *in forma pauperis* is DENIED AS MOOT.

/s/ William H. Pryor Jr.
UNITED STATES CIRCUIT JUDGE

EXHIBIT

B

11th CIR. RETURN UNFILED: MOTION FOR RECONSIDERATION

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARK TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.call.uscourts.gov

August 08, 2018

John David Wilson Jr.
Zephyrhills CI - Inmate Legal Mail
2739 GALL BLVD
ZEPHYRHILLS, FL 33541-9701

Appeal Number: 17-15641-J
Case Style: John Wilson, Jr. v. Secretary, Department of Corr.
District Court Docket No: 8:16-cv-01369-JDW-AAS

RETURNED UNFILED: Motion for Reconsideration filed by John David Wilson, Jr. is returned unfiled because this case is closed. Motion received after the (21) days permitted. No further relief is available from this Court..

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Davina C. Burney-Smith, J
Phone #: (404) 335-6183

MOT-11 Motion or Document Returned

**Additional material
from this filing is
available in the
Clerk's Office.**