

IN THE  
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.  
FILED  
AUG 16 2019  
OFFICE OF THE CLERK

MARVEL THOMPSON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

) Supreme Court Case No. 19-5499  
USCA7 Case No. 18-2016  
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Comes now the Petitioner, Marvel Thompson, Pro Se, and moves the Court to place his pending petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit in abeyance pending this Court's decision in Banister v. Davis, Supreme Court Case No. 18-6943 (cert. granted).

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Argument

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1. The Petitioner, on 01 August 2019, filed his Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit to review the Judgment of the Seventh Cir. in USCA7 Case No. 18-2016.
2. The petition raises questions concerning whether, *inter alia*, the Seventh Circuit and District Court erred in treating the Petitioner's motion purusant to Federal Rule of Civil Procedure 60(b)(6) as an unauthorized "second or successive 28 U.S.C. § 2255 motion" when denying him the issuance of a certificate of appealability. See Pet. at Pages 7-8 (citing, *inter*

alia, this Court's decision in Gonzalez v. Crosby, 545 U.S. 524 (2005)).

3. Working backwards from decisions rendered pursuant to Federal Rule of Civil Procedure 60(b)(6) and this Court's decision in Gonzalez, this Court granted certiorari in Banister v. Davis, Supreme Court Case No. 18-6943, to decide "whether and under what circumstances a timely Rule 59(e) motion should be recharacterized as a second or successive habeas petition under Gonzalez v. Crosby, 545 U.S. 524 (2005)." Id.

4. Because the Court's decision to be rendered in Banister may impact the merits of the Petitioner's claims and questions currently before the Court on Petition for a Writ of Certiorari, the Petitioner respectfully moves the Court to place his certiorari in abeyance pending the outcome of Banister.

#### Conclusion

Wherefore, the Petitioner respectfully requests that this motion be granted on this 15 day of August, 2019.

  
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Marvel Thompson  
Reg. No. 04028-748  
Federal Correctional Institution  
Post Office Box 5000  
Pekin, Illinois 61555-5000

Petitioner / Pro Se

Certificate Of Service

The Petitioner, Marvel Thompson, Pro Se, hereby certifies under the penalty of perjury, 28 U.S.C. § 1746, that he has served the Solicitor General with the foregoing pleading at U.S. Department of Justice, 950 Pennsylvania Avenue, Room 5614, Washington, D.C. 20530-0001, by placing such in a First-Class, postage prepaid envelope, and depositing such in the U.S. Mail on this 15 day of August, 2019, to effect delivery and service in accordance with the Rules of the Court.

  
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Marvel Thompson