

December 30, 2019

CLERK OF THE COURT

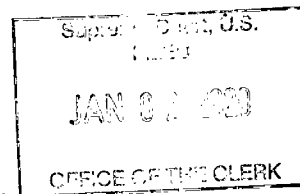
SUPREME COURT OF THE UNITED STATES

1 First Street, N.E.

Washington, DC 20543

19-6153

ORIGINAL



Re: Case No. 19-6153, Davontah Lee Nelson, vs ~~Sherry L. Burt~~ Warden

RKB

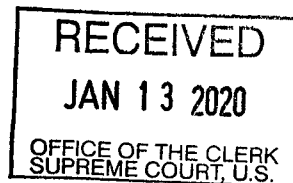
Dear clerk,

Enclosed for filings please find one original and a copy of Petition for Rehearing, Affidavit in support of Petition for Rehearing, Certification of Counsel, and Proof of Service

Respectfully submitted,

/s/ ~~Davontah Nelson~~

Davontah Lee Nelson # 640632
Petitioner - Appellant, In Prison
Muskegon Correctional Facility
Muskegon, MI 49442
(231) 773-3201



important Federal question in a way that conflicts with relevant decisions of this Court.

As petitioner asserted and showed, the U.S. Court of Appeals decision conflicts with the mailbox rule and *Houston v Lack*, 487 U.S. 266, 272, 108 S.Ct. 2379, 101 L.Ed. 2d 245 (1988); FRAP 25(a)(2) (c).

The United States denied the motion for reconsideration and did not toll the clock due to the May 3, 2019 deadline for the motion for reconsideration, was dated, signed and submitted to the Court May 3, 2019, but was not filed with their Court until May 7, 2019.

The Supreme Court formulated a mailbox rule, stating that documents are considered filed with the Court when the documents is submitted to Prison officials for filing. *Houston v Lack*, 487 U.S. 266, 272, 108 S.Ct. 2379, 101 L.Ed. 2d 245 (1988); therefore, under the mailbox rule and clearly established United States Supreme Court case law, if petitioner has signed, dated, or given his motion to Prison authorities to mail staff on May 3, 2019, his motion will be considered timely and tolled and the notice of appeal should be considered timely, see, e.g., *United States v Ibarra*, 502 U.S. 2, 6, 112 S.Ct. 4, 116 L.Ed. 2d 1 (1991); *Fowler v. Cantow*, 83 F. App'x 729, 730 (6th Cir. 2003).

CONCLUSION AND RELIEF

For the following reasons, Petitioner-Appellant, Davoniah Lee Nelson, respectfully and Prayfully asks that this Court grant rehearing, reverse the order denying Petition for a writ of Certiorari, and either review the merits of Nelson Case or remand to the lower Court and hold on hearings on the merits of his Case with appointment

of counsel, or alternatively, what this Court deem just and proper for relief.

15/ Davontah Lee Nelson

Davontah Lee Nelson #940632
Muskegon Correctional Facility
2400 S. Sheridan Drive
Muskegon, MI 49442
(231) 773-3201

12/30/2019

VERIFICATION

I, Davontah Lee Nelson, Petitioner - Appellant, verify, declare, under the penalty of Perjury all stated above is true and correct to the best of my information, knowledge, and belief. 28 U.S.C. § 1746

12/30/2019

PROOF OF SERVICE

15/ Davontah Lee Nelson

Davontah Lee Nelson #940632

I swear on December 30, 2019 I served a copy of Petition for Rehearing, Affidavit in support of Petition for hearing upon Tom's trial waiver, Sherry L. Burt, through their attorneys Andrea M. Christa Brown, by facility mail staff, first class postage prepaid at P.O. Box 30217 Lansing, MI 48909. 28 U.S.C. § 1746

12/30/19

15/ Davontah Lee Nelson

Davontah Lee Nelson #940632

CERTIFICATE OF COUNSEL

Counsel certify that it is restricted to the grounds specify in this Petition and Paragraph and that it is presented in good faith and not for delay.

12/30/19

15/ Davontah Lee Nelson

Davontah Lee Nelson #940632