

No._____

IN THE SUPREME COURT OF THE UNITED STATES

(In re DALE JOHNSON),

Petitioner,

v.

ROBERT GILMORE

Respondent.

MOTION TO FILE PETITION FOR WRIT OF
CERTIORARI OUT OF TIME

The Petitioner, Dale Johnson files this Motion to File Petition for Writ of Certiorari out of Time for the following reasons:

Petitioner's Petition for Rehearing En Banc was denied on March 13, 2017.

However Petitioner never received the Order denying his Petition.

Petitioner wrote to the Clerk of the Third Circuit of PA asking for the status of his case and was then when the Clerk responded with a copy of the Order of March 13, 2017, Petitioner was notified that his Petition was denied.

Petitioner wrote to the Prison mail-room where he is housed asking if they received any legal mail for him from The Third Circuit Court of Appeals in March of 2017. Petitioner received a response from the prison mail-room stating that they received no legal mail for me in March 2017.

Petitioner then wrote to the Clerk of Third Circuit of PA producing a copy of the

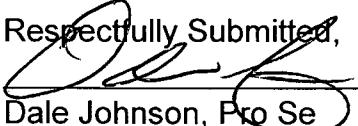
request and response of the prison mail-room, asking if there was anything she can do to extend his time to file his Petition for Writ of Certiorari, but was told that He will have to take this up with the United States Supreme Court. **See App. E** of the Petition.

Petitioner then studied the rules for filing an Extraordinary Writ of Certiorari and tried to file it sooner than he did, but due to the Institution where he is housed Libraries numerous cancellations of the Law Library and all PA prisons lock down for two weeks September 2018, Petitioner was not able to file his Extraordinary Writ sooner than he did in September 2018, but was returned to him being out-of-time.

Petitioner explained to the Clerk of The Supreme Court multiple times and finally on May 9, 2019 was told that he can file his Petition with a Motion directing the Clerk to file the petition out-of-time, otherwise he can file an Extraordinary Writ, prohibition or mandamus.

Petitioner refiled his Extraordinary Writ and it was returned for a second time directing Petitioner to file a Motion with his Petition, directing the Clerk to file the Petition out-of-time, although he filed an Extraordinary Writ.

Wherefore, for the above mentioned reasons, Petitioner ask that the Clerk of the United States Supreme Court please grant this motion and file his Extraordinary Writ of Certiorari because this Court needs to address the issues presented in his Petition.

Respectfully Submitted,

Dale Johnson, Pro Se

07-03-19

ALD-126

February 9, 2017

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 16-4028

DALE JOHNSON, Appellant

VS.

SUPERINTENDENT GREENE SCI, et al.

(W.D. Pa. Civ. No. 2-16-cv-01011)

Present: MCKEE, JORDAN and RESTREPO, Circuit Judges

Submitted is appellant's request for a certificate of appealability under 28 U.S.C. § 2253(c)(1)

in the above-captioned case.

Respectfully,

Clerk

MMW/JDM/sfh/pdb

ORDER

The foregoing request for a certificate of appealability is denied because reasonable jurists would not dispute the District Court's conclusion that Appellant's 28 U.S.C. § 2254 petition is barred by the one-year statute of limitations. See 28 U.S.C. § 2244(d)(1); Slack v. McDaniel, 529 U.S. 473, 484 (2000). Appellant has not arguably demonstrated a basis for equitable tolling. See Holland v. Florida, 560 U.S. 631, 649 (2010).

By the Court,

s/ Kent A. Jordan
Circuit Judge

Dated: February 14, 2017

PDB/cc: Dale Johnson

Rusheen R. Pettit, Esq.



A True Copy

Marcia M. Waldron

Marcia M. Waldron, Clerk
Certified order issued in lieu of mandate.

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. **16-4028**

DALE JOHNSON,
Appellant

VS.

SUPERINTENDENT GREENE SCI, et al.

(W.D. Pa. Civ. No. 2-16-cv-01011)

SUR PETITION FOR REHEARING

Present: SMITH, Chief Judge, McKEE, AMBRO, CHAGARES, JORDAN, GREENAWAY, JR., VANASKIE, SHWARTZ, KRAUSE, and RESTREPO, Circuit Judges

The petition for rehearing filed by **Appellant** in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

BY THE COURT

s/ Kent A. Jordan
Circuit Judge

DATED: March 13, 2017
SLC/cc: Dale Johnson
Rusheen R. Pettit

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