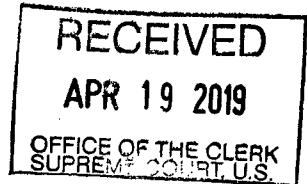


No. _____

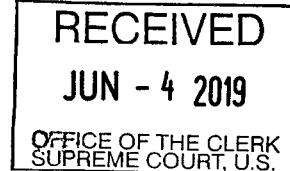


IN THE
SUPREME COURT OF THE UNITED STATES

ROGER L. RICHARDS -- PETITIONER

vs.

**DARREL VANNOY, WARDEN
LOUISIANA STATE PRISON -- RESPONDENT(S)**



**MOTION TO DIRECT THE CLERK TO FILE A PETITION FOR A
WRIT OF CERTIORARI OUT-OF-TIME**

NOW INTO THIS HONORABLE COURT comes Petitioner Roger Richards, who respectfully request this Court to grant an out-of-time Writ of Certiorari for the following reasons:

Offender Counsel Substitute completed Petitioner's writ on December 2, 2018. It was printed and all mailing envelopes were completed on December 3, 2018. On December 5, 2018, the writ was delivered to Petitioner to be signed and mailed to the Court. The "Due Date" was set for December 10, 2018. Petitioner submitted his Writ of Certiorari to this Honorable United States Supreme Court on December 11, 2019.

Petitioner makes note that he is a prisoner at Louisiana State Prison. His living quarters is Camp C Tiger Unit which is a cell block. There is no "freedom of movement" that would allow him to walk into the Classification Office in order to delivery his legal work for forwarding to the Court. Rather, he must rely upon the Classification Department to make rounds on the unit when they are available, in order to pick up and mail out legal work through the "Indigent / Legal Request." This only occurs (at best) twice a week.

Petitioner makes note that although there is a "Mailbox Rule" put into place by this United States Supreme Court, it is often flawed by those prison officials entrusted to assist the

Offenders. In discussing the "Mailbox Rule" of the United States Supreme Court in *Houston v. Lack*, 487 U.S. 266, 108 S.Ct. 2379, 101 L.Ed.2d 245 (1988), the Court held that *pro se* prisoner's notice of appeal was deemed "filed at moment of delivery to prison authorities."

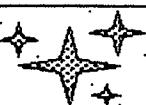
The "Mailbox Rule" further stated in *Houston v. Lack, supra*, Worse, the *pro se* prisoner has no choice but to entrust the forwarding of his notice of appeal to prison authorities whom he cannot control or supervise and who may have every incentive to delay. No matter how far in advance the *pro se* prisoner delivers his notice to the prison authorities, he can never be sure that it will ultimately get stamped 'filed' on time. And if there is a delay the prisoner suspects is attributable to the prison authorities, he is unlikely to have any means of proving it, for his confinement prevents him from monitoring the process sufficiently to distinguish delay on the part of prison authorities from slow mail service or the court clerk's failure to stamp the notice of the date received. Unskilled in law, unaided by counsel, and unable to leave the prison, his control over the processing of his notice necessarily ceases as soon as he hands it over to the only public officials to whom he has access-the prison authorities-and the only information he will likely have is the date he delivered the notice to those prison authorities and the date ultimately stamped on his notice.

As such is the case, Petitioner is in a 8' x 4' cell for 23 hours a day with no means of having access to prison officials other than waiting for them to make rounds. If there is a security incident happening on that particular day, Petitioner may not see them until they decide to make rounds again.

Based on this set of facts, Petitioner should be allowed to file his Writ of Certiorari out-of-time because it is deemed to have been no fault of his own, but rather the result of a State-created impediment. Petitioner request that the Clerk is directed to set a new return date for filing Petitioner's Writ of Certiorari
Executed on 8th day of April, 2019.

Roger Richards
Mr. Roger L. Richards #551911
Camp C Tiger 3-Left-5
Louisiana State Prison
Angola, Louisiana 70712

Prepared By:

CAMP C – LITIGATION TEAM	
	DR. ERIC M. DENET, PH.D., TH.D., DIV.D., C.E.D.D. #380958 CAMP C BEAR-2 CERTIFIED PARALEGAL / OFFENDER COUNSEL III

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 17-30853



A True Copy
Certified order issued Sep 11, 2018

Tyler W. Cayer
Clerk, U.S. Court of Appeals, Fifth Circuit

ROGER L. RICHARDS,

Petitioner-Appellant

v.

DARREL VANNOY, WARDEN, LOUISIANA STATE PENITENTIARY,

Respondent-Appellee

Appeal from the United States District Court
for the Eastern District of Louisiana

ORDER:

Roger L. Richards, Louisiana prisoner # 551911, was convicted of aggravated rape and sentenced to serve life in prison. Following the district court's denial of his 28 U.S.C. § 2254 habeas corpus petition, he moves this court for a certificate of appealability (COA) on claims concerning evidentiary sufficiency, *Batson v. Kentucky*, 476 U.S. 79 (1986), jury instructions, and ineffective assistance of counsel.

One will receive a COA only by making "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2); *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003). One "satisfies this standard by demonstrating that jurists of reason could disagree with the district court's resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further." *Miller-El*, 537 U.S. at

No. 17-30853

327. Because Richards has not met these standards, his COA motion is DENIED.

Signed: 9-11-2018

/s/ Catharina Haynes

CATHARINA HAYNES
UNITED STATES CIRCUIT JUDGE

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