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NO. 2018-1144-2018-1144
NEW YORK STATE: COURT OF APPEALS

Ind. No.'s 0041/07 & 6548/06
App. Div. No. 134-17 First Dept.
NEW YORK STATE

IN THE
SUPREME COURT OF THE UNITED STATES

CARL WELLS - PETITIONER

VS.

Warden, (Ada) Pressley, et. al. - RESPONDENT(S)

MOTION FOR LEAVE TO FILE THE PETITION "OUT OF TIME"

The petitioner asks leave to file the attached petition for a out-of-time writ of certiorari.

Please check the appropriate boxes:

☒ Petitioner has previously been granted leave to proceed in forma pauperis in the following court(s):

The New York State Court of Appeals. ✓

The N.Y.S. Supreme Court Appellate Division First Department. ✓

☐ Petitioner has not previously been granted leave to proceed in forma pauperis in any other court.

☒ Petitioner's affidavit or declaration in support of this motion is attached hereto.

☐ Petitioner's affidavit or declaration is not attached because the court below appointed counsel in the current proceeding, and:

☐ The appointment was made under the following provision of law: _____, or

☐ a copy of the order of appointment is appended.



(Signature)

5/24/19

AFFIDAVIT OR DECLARATION

1. In support of Motion to File Petition Out of Time, I, Carl Wells, am the petitioner in the above - entitled case. In support of my motion to file petition out-of-time, I state that: (1), the lower court's determination is erroneous and a violation of statutory law pursuant to, NY McKinney's, Civil Procedure Law and Rules (C.P.L.R.), §2221 subdivision (E) and it's Rules concerning, "Interest of Justice" Rulings.

2. See, Mejia v. Nanni, 304 A.D.3d 870 (1st Dept 2003), cited in Petitioner's Notice of Motion to Reargue/Renew in the Interest of Justice, dated Nov. 10th, 2018, with attached Affidavit in Support. (See: **Exhibit (A)**; (11 of 11 pages) with included cover page letter dated, 10-31-18. (See **Exhibit (B)**; **Letter dated**, June 26th, 2017, also see; **Exhibit (C)**; "Affirmation in Opposition to Defendant's Motion").

3. The very reason that the petitioner Reargue/Renewed his writ is due to a set of events; two of which happens to detail the issue. (A). On October 31st, 2018, located in Part Tap (B), before the Hon. Judge Curtis Farber. (ADA) Courtney Groves turned over duplicate copies of the court files, with a discovery list of a 157 items listed. (B). On Oct. 2nd, 2018, (ADA) Courtney Groves admitted to guilt by his office. Including newly discovered evidence, claiming that "Her Office always knew where the files were. (See **Exhibit (D)**: Transcript - October 2nd, 2018, pages (1 & 10).) Also see, Certiorari Appendix (F), letter to, N.Y.S. Court of Appeals, In RE: Wells v. Pressley, et. al. w/ attached exhibit motion

to disqualify Hon. Judge Conviser, PT 95, 111 Centre Street, NY, NY dated January 11th, 2019.

4. The reason for reconsideration: The issue of Governmental Delay was brought back into light, N.Y. State Office of Court Administration dated, June 26, 2017, claiming that "duplicate copies of the court files is located in Part Tap (B)". Etc.? Why is it that 16 months went past, until Oct. 31st, 2018, until a trial took place. Not to mention the fact that, (ADA) Robert Walker was removed on Sept. 6th, 2018 by his supervisor for "Wrong Doings", like, telling the truth, that "the files were lost again", May 2017.

5. (CPLR) 2221(e), Has been used in many criminal matters to Renew/Reargue, by "Relaxing the requirements and granting relief in the "Interest of Justice". Yet, newly discovered facts were produced. Therefore, justifying the instant writ for reconsideration, the petitioner was not and is not "Out of Time".

6. A fundamental miscarriage of Justice has taken place by the 7 year delay, due to lost files that were never found. Everything was missing in the erroneous trial and the petitioner is requesting emergency review jurisdiction under "Compelling Reasons", Rule 10, Sup. Ct., also, Sup. Ct. Rule 20, "Extraordinary Writ" pursuant to, 28 U.S.C. § 1651(a). Moreover, a request to activate jurisdiction under, 28 U.S.C. § 2254(a), and Grant Habeas Corpus Relief.

7. I declare under penalty of perjury that the

foregoing is true and correct. [28 U.S.C. § 1746].

Executed on: May 24th, 2019
Stormville, New York 12582

A handwritten signature in cursive script, appearing to read "Carl Wells", written over a horizontal line.

Signature Pro Se.

State of New York

Court of Appeals

***Decided and Entered on the
nineteenth day of February, 2019***

Present, Hon. Janet DiFiore, *Chief Judge, presiding.*

Mo. No. 2018-1144

In the Matter of Carl D. Wells,
Appellant,

v.

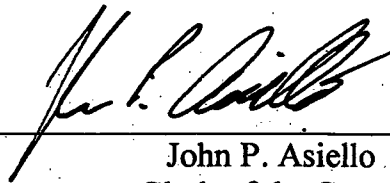
Warden Ada Pressley, et al.,
Respondents.

Appellant having moved for reconsideration of this Court's June 7, 2018
dismissal order;

Upon the papers filed and due deliberation, it is

ORDERED, that the motion is dismissed as untimely (see Rules of Ct of
Appeals [22 NYCRR] § 500.24[b]).

Judge Feinman took no part.



John P. Asiello
Clerk of the Court

State of New York

Court of Appeals

*Decided and Entered on the
seventh day of June, 2018*

Present, Hon. Janet DiFiore, *Chief Judge, presiding.*

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In the Matter of Carl D. Wells,
Appellant,

v.

Warden Ada Pressley, et al.,
Respondents.

Appellant having appealed to the Court of Appeals in the above title;

Upon the papers filed and due deliberation, it is

ORDERED, that the appeal is dismissed without costs, by the Court

sua sponte, upon the ground that no substantial constitutional question is directly
involved.

Judge Feinman took no part.



John P. Asiello
Clerk of the Court

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