

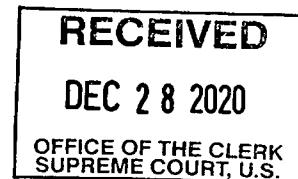
NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES
SHANE JERMAINE MATTHEWS - PETITIONER (PROSE)
VS.

LORIE DAVIS TDCJ-CID - RESPONDENT(S)

MOTION TO FILE OUT OF TIME

WRIT OF CERTIORARI



COMES NOW, SHANE JERMAINE MATTHEWS, to the HONORABLE Judges of said court, requesting a MOTION TO FILE OUT OF TIME WRIT OF CERTIORARI for the following reasons but not limited to: Under the covid-19 protocol Petitioner had to self quarantine twice after been exposed by other offenders that tested positive for the virus. Once on or 7-23-20 for 14 days, and the second time was 8-10-20 for another 14 days. This left petitioner under the impression that his motion for extension to file a writ of certiorari was or would be granted prior to his self quarantine filed with the courts 6-3-20. After time started to close in on his assumed time of extension and in answer to his motion to extend his time Petitioner filed his motion to file writ of Certiorari 9-8-20.²⁾ The unit have covid-19 protocol that restricted law library direct access, and contact with offenders who are "writ writers" that Petitioner had been

Utilizing.³⁾ Petitioner is Prose and unable to afford a Lawyer, and have to learn every step and present adequate Motion with rule requirements that lawyers took years to perfect.⁴⁾ Under the covid-19 Protocol offenders are only allowed information, paperwork, and cases from the law library via mail Monday, Wednesday, and Fridays (max three) that might not make it to the offender.⁵⁾ Petitioner's unit was highly exposed to the covid-19 virus, and is still under strict guidelines to contain the virus.⁶⁾ It would be a miscarriage of Justice not to entertain Petitioner's motion. SUPREME COURT RULE 13.3 allows this Honorable Court to GRANT review of Petitioner's Writ of Certiorari under extraordinary circumstances. Petitioner Prays that the above reason are extraordinary and the GRANTING his motion to file out of time Writ of CERTIORARI. This motion is presented in good faith and not for delay.

PRAYER

Wherefore, Petitioner PRAYS that this HONORABLE court GRANTS this motion to file out of time Writ of Certiorari. On the grounds set out in Petitioner's motion, and entertain his review of his out of time Writ of Certiorari.

DECLARATION

I SHANE JERMAINE MATTHEWS on this day 15 of December 2020 Verify and declare under the Penalty of Perjury that the facts Stated in this Document are true and correct.

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

No. 18-40992

FILED

February 13, 2020

Lyle W. Cayce
Clerk

SHANE JERMAINE MATTHEWS,

Petitioner-Appellant

v.

LORIE DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent-Appellee

Appeals from the United States District Court
for the Eastern District of Texas
USDC No. 1:15-CV-286

Before HAYNES, GRAVES, and ENGELHARDT, Circuit Judges.

PER CURIAM:*

Shane Jermaine Matthews, Texas prisoner # 01753901, was convicted by a jury of capital murder and sentenced to life imprisonment without parole. The district court denied his 28 U.S.C. § 2254 petition on the merits. Matthews now requests a certificate of appealability (COA).

To obtain a COA, a petitioner must make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). Where a district court

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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has denied claims on the merits, a petitioner must show “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 v. Cockrell*, 537 U.S. 322, 327 (2003).

Matthews has inadequately briefed and therefore waived his request for a COA with respect to his claims of ineffective assistance of counsel on direct appeal of his conviction. *See McGowen v. Thaler*, 675 F.3d 482, 497-98 (5th Cir. 2012). With respect to his claims of (1) ineffective assistance based on failure to file a motion to sever trial from all co-defendants, (2) ineffective assistance based on failure to object to Exhibit 64, (3) a speedy trial violation, (4) judicial bias, (5) improper prosecutorial comments during closing argument, (6) an erroneous accomplice-witness jury instruction, (7) insufficient evidence of a robbery, and (8) insufficient evidence he was at the crime scene, Matthews fails to make the requisite showing for issuance of a COA. *See Miller-El*, 537 U.S. at 327. His motion for a COA is therefore denied as to those claims. We construe his motion for a COA with respect to the district court’s denial of an evidentiary hearing as a direct appeal of that issue, *see Norman v. Stephens*, 817 F.3d 226, 234 (5th Cir. 2016), and affirm, *see Cullen v. Pinholster*, 563 U.S. 170, 181-82, 185-86 (2011).

COA DENIED; AFFIRMED.

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 18-40992

SHANE JERMAINE MATTHEWS,

Petitioner - Appellant

v.

LORIE DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL
JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent - Appellee

Appeals from the United States District Court
for the Eastern District of Texas

ON PETITION FOR REHEARING

Before HAYNES, GRAVES, and ENGELHARDT, Circuit Judges.

PER CURIAM:

IT IS ORDERED that the petition for rehearing is DENIED.

ENTERED FOR THE COURT:

/s/ James E. Graves, Jr.

UNITED STATES CIRCUIT JUDGE

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