

No. _____

21 - 5623

IN THE

SUPREME COURT OF THE UNITED STATES

ORIGINAL

FELIX ROBERTS

— PETITIONER

(Your Name)

vs.

BOBBY LUMPKIN, TDCJ DIRECTOR

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

FILED

AUG 30 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

FIFTH CIRCUIT COURT OF APPEALS

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

FELIX ROBERTS , TDCJ No.. 2017141

(Your Name)

ESTELLE UNIT, 264 FM 3478 Rd.

(Address)

HUNTSVILLE, TX 77320-3320

(City, State, Zip Code)

Unknown

(Phone Number)

QUESTION(S) PRESENTED

On May 3, 2021, Judge James C. Ho., of the Fifth Circuit Court of Appeals, denied Petitioner COA. Petitioner didn't know until May 10, 2021; Therefore, Petitioner had 15th days after May 10, 2021 and not May 3, 2021.

Once Petitioner received his "legal mail" on May 10, 2021. Petitioner filed a Motion for Oral Argument and Motion for Reconsideration which may i to the Fifth Circuit Court pass due date which was no fault of Petitioner if the court given Petitioner 15th days from May 3, 2021, which should have being 15 days from May 10, 2021.

On June 18, 2021, Petitioner received a letter from the cour (a member of the panel previously denied Petitioner's COA), but the whole panel denied Petitioner's Motion for Reconsideration. Petitioner then, filed a Motion for Rehearing and Motion for Rehearing En Banc on June 27, 2021 (that only 9 days after), then On July 1, 2021, Petitioner filed a Motion for Recusal of Appellate Judges.

On July 2, 2021, the Fifth Circuit informed Petitioner, that, his Motion for Rehearing and En Banc Reconsideration, that, the time for filing a Petition for Rehearing has expired.

On July 7, 2021, the court told Petitioner that they are taking no action for the Motion for Recusal of Appellate Judge's ruling because the case is closed.

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

Thompson v. Raspberry, 993 F. 2d. 513

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28 U.S.C. 2254

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☒ reported at Fifth Circuit Court of Appeals; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☒ reported at U.S. District court; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix C to the petition and is

☐ reported at Court of Criminal Appeals; or,
☒ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the Court of Criminal Appeals court appears at Appendix D to the petition and is

☐ reported at _____; or,
☒ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was May 3, 2021.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: July 2, 2021, and a copy of the order denying rehearing appears at Appendix E.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves Amendment 1, 5 and 6 of the United States Constitution, which provides:

Amendment 1: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof: or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievance.

Amendment 5: No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for Public use, without just compensation.

Amendment 6: In all criminal prosecutions, the accused shall enjoy the right to a speedy and Public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance for his defense.

STATEMENT OF THE CASE

On May 3, 2021, Judge James C. Ho., denied Petitioner's COA. Petitioner did not receive the Court's order until May 10, 2021, in which day, the Mailroom Personnel called Petitioner to the mailroom window.

Petitioner timely filed his Objection to the Judge's denial which should have started from May 10, 2021 on which day, Petitioner received the legal mail. Notwithstanding, Petitioner filed a Motion for Oral Argument and a Motion for Reconsideration to show the court how the court had miscalculated the time in which Petitioner received his legal mail caused petitioner to be time-barred.

REASONS FOR GRANTING THE PETITION

The holding of the Fifth Circuit Court of Appeals on Petitioner's Motion for Rehearing should not have being denied because Petitioner filed his Motion for Rehearing in a timely manner.

Petitioner did not know he had some legal mail to pick-up until May 10, 2021. Therefore, Petitioner had 15th days after May 10th, to file his defense motions or objections to any of the courts ruling. See, Thompson v. Raspberry, 993 F. 2d. 513.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Felipe Roberts

Date: August 27, 2021

APPENDIX A