CASE NO. 21-5860

IN THE SUPREME COURT OF THE UNITED STATES

DEATH PENALTY CASE

ANTONIO S. FRANKLIN
PETITIONER-APPELLANT

VS.

TIM SHOOP
RESPONDENT-APPELLEE

ON PETITION FOR WRIT OF CERTIORARI *TO THE* **SIXTH CIRCUIT** OF THE UNITED STATES

PETITIONER'S REPLY BRIEF TO RESPONDENT'S BRIEF IN OPPOSITION

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PETITIONER, *PRO SE*

THIS IS A CAPITAL CASE

Execution Date Set for January 12, 2023

LIST OF ALL PARTIES

[X] All parties appear in the caption of the case cover.

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INTRODUCTION

Respondent would have the Court believe that the current case before it is *simply confined* to the question of whether or not an appellant can choose to proceed *pro se* once he's already affirmatively elected to exercise his statutory right to have counsel. It's not. The parameters are much wider than whether or not Petitioner can or cannot self-represent.

Petitioner's litigation and questions (presented for review) lean heavily upon the protections of the Eighth and Fourteenth Amendments to the Constitution:

QUESTIONS "ORIGINALLY" PRESENTED FOR REVIEW

1. Though completely forsaken by the protections of the Sixth Amendment by the time state appellate inmates arrive at the federal appellate courts, does either the Eighth or the Fourteenth Amendments "protect" said inmates from being subjected to an apparently faulty appellate process due (in part) to ultra-egregious, ineffective counselors?

2. Is it cruel and unusual punishment to have a magistrate judge "exercising 'plenary' power" render absurd, yet binding oxymoronic decisions (that undoubtedly impedes a petitioner's path towards justice) to which the Sixth Circuit refuses to acknowledge and/or overturn?

3. Are *"continual,"* blatant violations against an appellant's Eight and Fourteenth Amendment Constitutional Rights severe enough violations to justify deviation from the "final judgment rule" of 28 U.S.C. §1291 in the Federal Courts?

4. Are the Eight Amendment Rights (against cruel and unusual punishment) and the Fourteenth Amendment Rights (for due process and equal protection) constitutionally sound enough to guard against an indigent inmate having the entirety of his federal appellate process rendered useless – notwithstanding the fact that said indigent inmate had vigorously endeavored to avoid such a dire predicament?

5. If it's proven beyond a reason of a doubt that assigned counsel is derelict; the magistrate judge "exercising plenary power," and as such having "final authority" in his case, has been grossly "judicial derelict" throughout the

handling of Petitioner's appellate process; and the two entities (whether working together or not) had a synergistic, yet detrimental effect on Petitioner's entire federal appeals to the result of "an aborted appellate process"; yet, the Sixth Circuit observed "all," but did "nothing" to effect justice and provide balance and equity; does these violations of Petitioner's Eighth and Fourteenth Amendment Rights entitle him to appeals anew?

And most, if not any, "mentioning of Petitioner's 'inability' to proceed pro se" is there to show the absurdity of the magistrate judge's rulings[1] and how said rulings blatantly violate Petitioner's right to Due Process, and is, in any instance, the epitome of cruel and unusual punishment.

And, let us not forget that not only was the Sixth Circuit "indifferent" to the gross abuse suffered by Petitioner, it was complicit in Petitioner's "complained of process," as that court also made rulings that would allow Petitioner to "continue to be abused" by his own counsel and magistrate judge exercising "plenary" power (see Docs. 17, 23, 30, 76 and 80 of

[1] Petitioner's counsel is outright ineffective, and the magistrate judge's ruling reflects exactly that (see Pet. at §4(a), pp. 8-14). Furthermore, counsel had a chance to file for the relief to which Petitioner "now" seeks to have litigated before the lower court way back in 2009, but flatly REFUSED to do so (see Appendix "D" of Pet.). But, now – all-of-a-sudden – counsel would like nothing more than to present these issues of tremendous merit to the court (undoubtedly) in their "predictable", grossly ineffectual manner, which will yield Petitioner "nothing" in the way or relief...though his issues are in fact deserving of relief. And all of that being said, the magistrate judge would disbar Petitioner and/or any other "competent" attorney (that may be willing to assist him in his time of need) from litigating these issues of "tremendous merit" in question. Instead, ruling that (1) Petitioner cannot have a change of counsel, (2) Petitioner cannot discharge counsel, and (3) Petitioner is too *incompetent* to self-represent, BUT in the instance that his current counsel refuse to file his motions in question, at that time, Petitioner – though being an incompetent imbecile – can "petition the court" for "permission" to file for said relief, himself; albeit WITHOUT any assistance from any counsel whatsoever {because while he has counsel no other attorneys will speak to him, nor assist him}. So, clearly, this case isn't only about Petitioner's ability to proceed *pro se*, but rather (and to a *much* larger degree) his ability to properly, yet *meaningfully* "access the courts," his right to Due Process, and his right to remain free from "cruel and unusual punishment."

Case No. 09-3389; Appendix "F" of his current Petition; and Petitioner's Motion for Certificate of Appealability (COA) under Case No. 18-3368 in the Sixth Circuit). And said circuit court, indeed, remains "indifferent" to this day and cares naught about Petitioner's ability to have a *meaningful* appellate process.

STATEMENT

On June 29, 2021, Petitioner, Antonio S. Franklin, lodged with this Honorable Court a Petition for Writ of Certiorari seeking to have the Court exercise its "judicial discretion" and "supervisory powers" so as to not only put an end to the gross neglect and abuse being suffered by Petitioner, in violation of his Due Process and constitutional right to remain free from cruel and unusual punishment, but to also provide "remedy" unto Petitioner and his most grotesque, yet unique situation. Respondent responded on October 18, 2021, to say that Petitioner's Writ of Certiorari is not properly before this Court inasmuch as the Sixth Circuit correctly ruled that it lacked jurisdiction to adjudicate Petitioner's appeal because it's an "interlocutory appeal."

Respondent further went on to say that Petitioner's current counsel is "experienced and diligent" (Br. in Opposition p.2); Petitioner's "arguments are frivolous" (Br. in Opposition p.5); and nothing of which Petitioner presents "would justify this Court's time" (Br. in Opposition p.5). And while Petitioner will, indeed, show Respondent's aforementioned assertions to be demonstrably false, he will now take the time to direct the Court's attention to **S. Ct. R. 15(2)**, which states:

> "Any objections to consideration of a question presented based on what occurred in the proceedings below, if the objection does not go to jurisdiction,

> may be deemed waived unless called to the Court's attention in the brief in opposition."

And pursuant to this rule, and the fact that Respondent never once addressed Petitioner's questions and litigation geared thereto, Respondent has in fact waived any presumption and/or legal argument that Petitioner's petition should not be accepted and adjudicated based on "anything" pertaining to Petitioner's allegations that his Eight and Fourteenth Amendments Rights were violated in one way or another.

Furthermore, and in keeping with the spirit of **S. Ct. R. 15(2)**, inasmuch as Respondent didn't bother to refute what Petitioner litigated concerning abuses suffered against his Eighth and Fourteenth Amendment Rights, the Court can take said assertions made by Petitioner, at face value, as being true. For Respondent has an obligation to the Court to point out "in its brief in opposition" – now, not later – any perceived misstatements(s) made in the petition. And being that Respondent's only instance of differing with facts asserted by Petitioner was when it alleged that Petitioner has "diligent" counsel (see Br. in Opp. at p.2), one must presume that Respondent either couldn't defeat Petitioner's argument and rationale, and/or Respondent acknowledges that Petitioner is and has been, indeed, having his Eighth and Fourteenth Amendment Rights violated in a most grotesque manner. Either way, Respondent had no response to Petitioner's proposed questions and litigation in support thereof. And as profound, substantial, and pertinent as his "questions" and litigation in support thereof are, it is Petitioner's belief that the Court is well within its right to exercise its "judicial discretion" and "supervisory powers" and make a determining (one way or another) pertaining to the questions of grave importance presented by Petitioner.

1. RESPONDENT CLAIMS THAT THE SIXTH CIRCUIT LACKED JURISDICTION TO HEAR PETITIONER'S CASE

(a) The Third Question "Presented for Review" and its Implications:

Respondent claims that "[t]he Sixth Circuit correctly held that it lacked jurisdiction to resolve [Petitioner's] interlocutory appeal . ... [and as such,] [his] case provides the Court no opportunity for reaching the many constitutional issues [Petitioner] hopes to litigate." (See Br. In Opp. P.3, at Re: for Den. the Writ).

However, what Respondent fails to take into account, in its endeavor to have Petitioner's Writ denied, is the fact that Petitioner's "third question presented for review" addresses this very scenario all-so-very-precisely.

Indeed, for the third question reads:

> Are "*continual,*" blatant violations against an appellant's Eight and Fourteenth Amendment Constitutional Rights severe enough violations to justify deviation from the "final judgment rule" of 28 U.S.C. §1291 in the Federal Courts?

And considering the bizarre appellate process in which Petitioner has been *undeniably* subjected to, this question couldn't be more pertinent to suit Petitioner's horrid situation. So, even if the Sixth Circuit Court of Appeals *was* "firmly" barred from adjudicating Petitioner's appeal to that court (on the merits) inasmuch as said appeal was tantamount to an "interlocutory appeal,"[2] the question(s) at present offers this Court the opportunity to determine whether or not courts of appeals are permitted to deviate from *normal and accepted*

[2] Though, mind you, Petitioner has absolutely "**nothing**" pending before the federal district court at this moment.

procedure – in favor of an "application of equity" and "the interests of justice," so as to *better* facilitate justice – if it's obvious that an appellant is currently (or will be) undoubtedly subjected to "cruel and unusual punishment" via a faulty appellate process.

And in further support of Petitioner's point in contention, he cites **Holland v. Florida,** for it is most compatible unto his case and situation, and holds that:

> "But we have also made clear that often the 'exercise of a court's equity powers . . . must be made on a *case-by-case basis.*' In emphasizing the need for 'flexibility,' for avoiding 'mechanical rules,' we have followed a tradition in which courts of equity have sought to 'relieve hardships which, from time to time, arise from a hard and fast adherence' to more absolute legal rules, which, if strictly applied, threaten the 'evils of archaic rigidity[.]' The 'flexibility' inherent in '*equitable procedure*' enables courts 'to meet *new situations* [that] demand equitable intervention, and to accord all the *relief necessary to correct . . . particular injustices.*' * * * [C]ourts [indeed] exercise judgment in light of prior precedent, but with awareness of the fact that specific circumstances, often hard to predict in advance, could warrant *special treatment* in an appropriate case."

Holland, 560 U.S. 631 at 650-51(emphasis added)(citations omitted).

(b) The Collateral-Order-Doctrine:

Respondent also insists that the Sixth Circuit was well within its right to deny Petitioner's appeal because it lacked jurisdiction to properly adjudicate his appeal to that court (see Br. In Opp. P.3, at Re. for Den. the Writ). It further goes on to state that Petitioner's current circumstances fail to qualify under the "collateral-order doctrine" for the simple reason that he may, upon denial of his attempt to reopen his case through a Rule 60 motion, "raise the supposed error as a ground for reversal." (see Br. in Opposition pp.4-5).

As Petitioner outlines in §7 of his Writ, he naturally qualifies for "immediate appeal" pursuant to the dictates of Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541, 546, as:

> It (1) must be conclusive on the question it decides: "is Petitioner able to discharge his current counsel and proceed *entirely* pro se?", (2) resolves important questions separate from the merits: "can Petitioner represent himself independent of counsel, but with assistance from Next Friend and/or *other* 'competent counsel?'", and (3) is effectively unreviewable on appeal: "if forced to proceed with arrangements as they are, his attorneys will undoubtedly destroy his ability to garner *'relief'* with their remiss, shoddy workmanship and perform the same exact way once they arrive in the Sixth Circuit. . .grossly deficiently (and to Petitioner's dismay, he will be denied his ability to weigh in on the appeal to the Sixth Circuit because he has counsel currently appointed)."

Furthermore, and as it *directly relates to* #(3) and Petitioner's ability to "appeal" to the Sixth Circuit – whilst continuing to be thrust upon the likes of his "grossly feckless" counselors, whom which he is unable to have replaced or removed – it must be noted that that particular circuit court firmly adheres to its *universal holding* that "there is no constitutional right to hybrid representation." See **Sampson v. Macauley**, 2021 U.S. App. LEXIS 31084 (6th Cir. October 15, **2021**) at [*17]. And "[w]hile a defendant has a constitutional right to be represented by counsel or to represent himself, he does not have a right to both." **Salinas v. Hart**, 2020 U.S. App. LEXIS 29285 (Sep. 15, **2020**) at [*5] (citation omitted). See, also, **Cassano v. Shoop**, 2021 U.S. App. LEXIS 18069, (June 17, **2021**) at [*26] stating "[i]t is well settled that there is no constitutional right to hybrid representation." (citation omitted).

Now, keep in mind that the present cases that Petitioner cites in this present matter are all from **2020** and **2021**. And with that being said, it is quite apparent that "this" is the Sixth Circuit's *"current sentiment,"* and once Petitioner arrives in the Sixth Circuit, inevitably dissatisfied with the results of the district court and with his current counsel "at the helm of his case," inasmuch as the district court refuses to replace or remove them, the Sixth Circuit can (and most likely will) prevent Petitioner from being heard whilst on appeal to that court.

His counsel will be heard whilst presenting their feckless appeal to said court, but Petitioner's *pro se* arguments will be cut off at the knees. And as such, his case **is** *effectively* "unreviewable." And this "unreview[ability]" being the third factor in determining whether or not – pursuant to **Cohen**, supra – Petitioner qualifies for immediate appeal, he has but to pigeonhole himself within the first two qualifiers to qualify. So, begins the countdown. (2) is to determine **"who"** litigates Petitioner Rule 60 Motion;[3] for as he's already shown, his counsel cannot...for a multitude of reasons.[4] (1) is to settle the question as to whether or not Petitioner is able to part with counsel and represent himself...with assistance from Next Friends.

And none of these "qualifiers," {§§(1)-(3)}, have *anything* to do with the issues being presented (within the likes of his Rule 60(d) Motion), *other than to ensure that* said issues will be presented in the best light by persons other than his current counsel, who has been proven to have a real penchant for being through-and-through untrustworthy, lazy, and grossly feckless. (See §4(a) of Petitioner's Writ of Cert. Pet.). And as such, Petitioner's case and unique set of circumstances naturally qualify for immediate appeal. See. **Cohen**, supra.

2. RESPONDENT'S ASSERTION THAT PETITIONER'S COUNSEL IS "DILIGENT"

To disprove this assertion, one has but to direct the Court's attention to §§4(a)-(d) of Petitioner's Writ. Those sections speak volumes. And as it directly pertains to §4(a), counsel

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[3] And whatever other litigation that may be necessary in the future aimed at overturning Petitioner's unjust conviction.

[4] One main reason being that they adamantly refused to litigate these issues of tremendous merit when Petitioner implored them to do as much back in 2009, when said issues were "ripe" and most befitting of a Rule 60 (b).

in question exhibited the *same exact* failures and inadequacies in the Sixth Circuit, on appeal from the district court, as it did in said district court. See Franklin v. Bradshaw, 695 F.3d 439 and Appendix "F" of Petitioner's current Writ of Certiorari. Counsel just refuse to take heed to "constructive criticism" and thereby improve its legal strategy.

HOWEVER, if by "diligent" Respondent truly means "persistent," then, yeah, counsel has been *very* "persistent." Persistently litigating Petitioner's case in a way that will, without question, fail to bring about "just results"; persistently destroying Petitioner's appeals; persistently representing fraud upon the court(s); persistently not having its client's best interest at heart; persistently allowing its client to be abused by absurd decisions from a magistrate judge exercising "plenary" power; persistently NOT taking advantage of new rulings and legislation that may benefit its client {see, for example, **Ohio Criminal Rule 42 (C)**. This rule came out in 2017, Petitioner has an execution date for January of 2023, YET counsel has somehow managed to NOT file under this new and promising rule to see if new" evidence exists that will reopen its client's appeals}. So, indeed, counsel is – by these measures – "diligent" to the utmost.

But be that as it may, and whatever the case, (seriously) what trust can be had by counselors who (1) though possessing the requisite skill to "properly" defend their client, apparently, yet intentionally sub-performs during their client's "death penalty" appeals,[5] (2) habitually fails to satisfy AEDPA's deference for state court rulings,[6] (3) habitually fails to

[5] There has to be a conflict of interest that exist somewhere. Otherwise, what else would explain "experienced counsel's" gross negligence and serious attorney misconduct?

[6] It most certainly takes "special skill and qualifications" to become death-penalty certified. Yet the mistakes exhibited by Petitioner's counsel throughout their handling of his case were

"reply" to the prosecution's default argument, (4) habitually fails to demonstrate "prejudice," (5) habitually fails to provide "cause" for their client's default, (6) repeatedly fails to argue "cause," "prejudice," and/or a "miscarriage of justice," (7) habitually omits citations to both the record and pertinent case law, (8) repeatedly fails to provide "specificity" to their argument, (9) fails in their "obligatory duty" to take "newly discovered evidence" back to the state courts so that the state court can make a fresh determining as pursuant to AEDPA and **Collen v. Pinholster**, 131 S.Ct. 1388, (10) repeatedly fails to request an evidentiary hearing for claims clearly needing one, (11) fails to identify the prosecution's offending comments, or where they might be found in the record, thereby prompting the district court to inform counsel the it isn't required to search the record in order to find support for their client's claims, (12) compels the court to state that it isn't inclined to supply a reason of its own making as to how a particular claim is related to their client's ineffective assistance of counsel claim, (13) sets forth a claim "as is" in one sentence within their habeas petition, *which contains no citation to the record or federal law*, and defends against assertions of procedural default with "three sentences," (14) promises unto their client and the district court to litigate particular *pro se* issues if granted a remand, but ultimately omits said issues in question once their client is back from remand, (15) fails to lodge a records request in light of the new **Ohio Criminal Rule 42 (C)**, and (16) frequently fails in their duty to forward their client copies of decisions from the court

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becoming of a novice. Certainly not what you'd expect (or accept) from someone *"learned"* in appellate law, yet alone "death-penalty appellate law." Indeed, since the ratification of the AEDPA, every callow attorney fresh out of law school knows that deference is to be paid unto the state court's highest court to reach the merits thereof and that in order to prevail on federal review you must evince that the state court's ruling was a mis-, or unreasonable application of federal law. So, why, then, does Petitioner's "superbly competent" counselors habitually fail him in the most rudimentary of ways, and, moreover, fail to put forth proper diligence whilst representing his interests?

"directly pertaining to motions that he's filed himself": last time it was Docs. 183 and 200, this time it's Docs. 247 and 249 {had Petitioner had have been in receipt of Doc. 247 he could have dispensed with Doc. 248, and instead launched immediately into the filing of Doc. 250}. These are things to which both counselors have done – professional and prestigious as they are. So, "experienced," yes. "Diligent," not so much; unless Respondent means "persistent."

3. OTHER FRIVOLOUS AND/OR INACCURATE CLAIMS MADE BY RESPONDENT

(1) Petitioner's "arguments are frivolous."

Not sure just how litigation concerning one's constitutional right to Due Process and the right to remain free from "cruel and unusual punishment," pursuant to the Fourteenth and Eighth Amendments to the U.S. Constitution, ~~respectively,~~ could ever be "frivolous." But even if there did exist instances thereof, the litigation contained within Petitioner's Writ of Certiorari most definitely is not.

(2) Petitioner claims "unspecified departures from the 'accepted and usual course of judicial proceedings.'"

Petitioner's Writ of Certiorari is replete with instances of "departures from the 'accepted and usual course of judicial proceedings." In fact, that's pretty much all his Writ consists of – instances of departures from accepted and usual course of judicial proceedings.

FOR INSTANCES:

(a) When the district court denied Petitioner's Petition (Doc. 104) and outlined glaring instances of incompetence and fecklessness on behalf of Petitioner's counsel (see §4(a) of

Petitioner's Writ), Petitioner did the reasonable thing and used the very instances highlighted by the magistrate judge to request a change of counsel (see Doc. 121). The magistrate judge, having *just* assailed counsel's performance, suddenly saw fit to perform an one-eighty and heap "praise" upon said counselors and their work ethic (see Doc. 122). And when Petitioner sought redress from the Sixth Circuit – in a direct appeal to that court and in appealing the absurd decision from the district court – said appellate court cared naught and proceeded to deny Petitioner's motions for substitution of counsel. See Docs. 17, 23 and 30, Case No. 09-3389. Needless to say, counsel performed just as poorly in that court as it had in the lower federal court.

(b) After having had his *entire* appellate process "aborted" at the hands of grossly negligent counselors, Petitioner sought to "fire" said feckless counsel so that he could file for relief pursuant to (at the time) the Court's new precedent ruling in **Martinez v. Ryan**, 566 U.S. 1. (See Doc. 143).[7] The magistrate judge, at that time, saw fit to **force** Petitioner into a hybrid-representation situation, entirely against Petitioner's will.[8] (See Docs. 152, 153, and **155,** as with {telephone conferences occurring on 07/23/2013, 08/19/2013, 08/20/2013, and

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[7] Petitioner even went as far as to write the Sixth Circuit a letter (see Appendix "F" of Petitioner's Writ) seeking, again, their help in dispatching his feckless counsel. That court obviously did nothing.

[8] Though, mind you, this very magistrate judge would deny at least one of Petitioner's motions (of great magnitude) simply because it was filed by him, pro se, while he had counsel (see Docs. 136-37.) REFUSED to even think about considering said motion, ONLY because he had lodged said motion himself. It must be further noted that the work to which Petitioner did was very independent of his counsel. It was NOT a simple situation wherein which Petitioner would wait for counsel to file something with the court and than seek to "supplement it." No, Petitioner's 60 (b) Motion had to stand on its own. And did I mention that the magistrate failed in its duty to give Petitioner a Faretta warning, pursuant to **Faretta v. Cal**, 422 U.S. 806? Yeah, the magistrate judge did that. Petitioner reported it to the Sixth Circuit and it didn't care.

09/25/2013}). Not only would the magistrate judge force Petitioner to file papers in its court – against his will – and deny him effective counsel, it would also cease to provide Petitioner with copies of its decisions (pertaining *"directly"* to papers that Petitioner was **forced** to file with the court, *pro se*). Though said magistrate wouldn't make Petitioner *aware* of that fact.

And it is this particular instance that would lead to Petitioner filing a "late notice of appeal." Petitioner explained his situation to the Sixth Circuit, but it didn't care and was quite content to add to Petitioner's suffering by denying his appeal to that court and not even respond to Petitioner's Faretta violation litigation.

And not only did these above mentioned occurrences take place,[9] as abusive and deviant as they were, the Sixth Circuit sanctioned them. And as such, and pursuant to one of **S. Ct. R. 10 (a)**'s considerations governing review on certiorari: "The United States court of appeals . . . has so far departed from the accepted and usual course of judicial proceedings, 'or *sanctioned* such a departure by a lower court,' [this Court can and should] exercise [its] supervisory power." And, indeed, it should.

(3) Petitioner "suggests that '*the*' appellate process itself is unconstitutionally cruel and unusual,"

Petitioner has never alleged that "the" appellate process "itself" is unconstitutionally cruel and unusual. What he said (or was inferring) was that **his** appellate process – the

[9] As with other absurd abuses suffered by Petitioner.

appellate process the way in which he had experienced it – constitutes cruel and unusual punishment, in violation of his Eight and Fourteenth Amendment Rights.

(4) Petitioner "asserts that his case presents unspecified questions of 'exceptional importance' regarding 'the appellate process of 28 U.S.C. §2254.'"

Respondent received the same Petition for Writ of Certiorari that the Court received. And as such, Respondent is undoubtedly privy to Questions 1-5 (at p.i) that are contained within his Writ.[10] Just as Respondent is aware of the "departures from the accepted and usual course of judicial proceedings" that Petitioner made quite apparent throughout his litigation to the Court. And said questions in question, in conjunction with the litigation in support, should indeed be enough to at the very least give the Court pause for thought; as the matter to which they address is of a grave magnitude.

CONCLUSION

Petitioner's questions presented, and litigation in support thereof, illuminates a very disturbing pattern that has taken place throughout the course of his case; and apparently will not stop until this Honorable Court puts an end to it. Furthermore, try as he may, Petitioner is evidently powerless to avoid being victimized by the "collective."[11] And, indeed, Petitioner has effectively demonstrated that (in violation of his Eighth and Fourteenth Amendment Rights) he is currently engaged in a fight against (1) his own counsel, (2) his magistrate judge exercising "plenary" power, and (3) the Sixth Circuit.

[10] And reposted within the "Introduction section" of this Reply Brief.
[11] Petitioner's own counselors; Petitioner's magistrate judge exercising "plenary power"; and the Sixth Circuit Court of Appeals.

And the sad thing about Petitioner's situation is the *fact* that Petitioner cannot seek remedy or recourse for counsel's ineffectiveness, inasmuch as there exist no "constitutional right to effective counsel" for state litigants having advanced to the federal courts. BUT...the fact that Petitioner has, himself, been "diligent" in his endeavor to "resist" and attempt to seek "remedy" for his dire situation from the courts (including this one), various organizations,[12] the Disciplinary Council, and law firms on numerous occasions, his Eighth and Fourteenth Constitutional Amendment Rights – as with the holdings of Holland – should step in to not only prevent a miscarriage of justice (in the way of an unjust execution), but to allow Petitioner to have a new appellate process, as his [appellate process] is and was *apparently grossly* abusive.[13] And Respondent's litigation set against this contention is largely unavailing, and furthermore unconvincing.

Respectfully Submitted,

Antonio Sanchez Franklin
Petitioner, *Pro Se*

[12] See Sixth Circuit Case No. 09-3389 at Doc. 23 (at Attachment "B").

[13] See Holland, supra, at 652-54 – "constitut[ing] extraordinary circumstances sufficient to warrant equitable relief." The Court should also see Petitioner's Motion for a Certificate of Appealability in the Sixth Circuit, at Case No. 18-3368, and take notice of not just the consistent abuse suffered by Petitioner, but the similarities to Holland.