

No. 21-6571

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IN THE  
SUPREME COURT OF THE UNITED STATES

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RUBEN ORLANDO BENITEZ-PETITIONER

VS.

STATE OF MISSISSIPPI-RESPONDENT

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MOTION FOR REHEARING

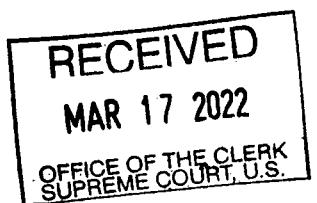
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RUBEN ORLANDO BENITEZ #182157

SMCI P.O. BOX 1419

LEAKESVILLE, MS 39451

NO PHONE AVAILABLE

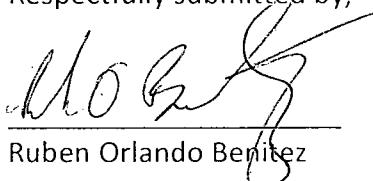


**CERTIFICATION OF COUNSEL**

Indigent Pro Se Petitioner Ruben Orlando Benitez does hereby certify that he is a Petitioner unrepresented by counsel and that the grounds stated are briefly and distinctly presented in the Petition titled "Motion for Rehearing" which are limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented, in compliance with Rule 44 of the Rules of this Court.

Indigent Pro Se Petitioner Benitez also certifies that the grounds stated briefly and distinctly presented in the Petition titled "Motion for Rehearing" is restricted to the grounds specified in Rule 44.2 of the Rules of this Court and the Petition titled "Motion for Rehearing" is presented in good faith and not for delay.

Respectfully submitted by,

  
\_\_\_\_\_  
Ruben Orlando Benitez  
MDOC # 182157

Sworn to and subscribed before me, this 02 <sup>ND</sup> day of March, 2022

Not Available  
Notary

## 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:

Mississippi Supreme Court/Court of Appeals

Lynn Fitch, Mississippi Attorney General

IN THE SUPREME COURT OF THE UNITED STATES

Ruben Orlando Benitez

Petitioner

V

No. 21-6571

## State of Mississippi

### Respondent

## MOTION FOR REHEARING

Comes now, Indigent Pro Se Petitioner Ruben Orlando Benitez  
filing this Motion for Rehearing, pursuant to U.S. Supreme Court  
Rule 44, 44.2 & .3, pointing out intervening matters which only  
became evident after the refusal of counsel for the State of  
Mississippi to follow the clear and concise Rules of the U.S.  
Supreme Court which required counsel to submit a waiver or Brief  
of Opposition by Monday, January 10, 2022.

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WHETHER THE STATE OF MISSISSIPPI FOREGOES WAIVER

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Counsel for the State of Mississippi was given the proper notification of the docketed writ of certiorari as stated in U.S. Supreme Court Rule 12.3. However, counsel for the State of Mississippi elected to forego the submission of the mailed waiver which was attached as part of the notification which was sent pursuant to U.S. Supreme Court Rule 29. In foregoing the submission of the waiver counsel for the State of Mississippi is constrained by the aspects of U.S. Supreme Court Rule 12.6 which clearly points out "that parties who file no document will not qualify for any relief from this court." Therefore, the State of Mississippi has no standing to qualify for any relief from this court as defined by the Rules of the United States Supreme Court. This Rule of this Court is definitive and does not afford an option for the refusal of a basic requirement.

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WHETHER THE STATE OF MISSISSIPPI PROVIDES ANY OPPOSITION  
TO THE PROPOSED

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According to U.S. Supreme Court Rule 15.2 the counsel for the State of Mississippi is “admonished that they have an obligation to the U.S. Supreme Court to point out in the brief of opposition, and not later, any perceived misstatement made in the petition which was filed against them.” According to this Rule of this Court, the State of Mississippi had a definitive responsibility to contest any misstatements which were presumed to be present in the submitted Writ of Certiorari submitted by Pro Se Indigent Petitioner Benitez. The abstention to submit a brief in opposition as prescribed by U.S. Supreme Court Rule 15.3 provides beyond a preponderance of doubt the State of Mississippi has no objection/contention against the argument and full relief sought in the submitted Writ of Certiorari which was docketed on December 09, 2021 submitted by Indigent Pro Se Petitioner Benitez.

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WHETHER THE STATE OF MISSISSIPPI ABANDONS ORAL  
ARGUMENT PROCEDURES

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Therefore, Indigent Pro Se Petitioner Ruben Orlando Benitez request this court to grant the full relief sought in the Writ of Certiorari as U.S. Supreme Court Rule 28.6 specifically states "oral argument will not be allowed on behalf of any party for whom a brief has not been filed." The Rules of the United States Supreme Court are clear in not providing, a party who does not fully comply with the Rules of this Court, an alternate option for the refrainment of active participation with the complaint placed against the respondent. In addition, counsel for the State of Mississippi wholly failed to follow the most essential procedure of an active complaint by Writ of Certiorari in that it never served a waiver upon this United States Supreme Court or Indigent Pro Se Petitioner Benitez, which was sent to counsel according to the specific Rules of this Court. The denial to follow the most basic Rules of the United States Supreme Court by counsel for the State of Mississippi is unambiguous and pervasive and cannot be excepted by the United States Supreme Court or viewed as harmless error.

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WHETHER THE STATE OF MISSISSIPPI ABANDONS THE RULES OF  
THE UNITED STATES SUPREME COURT

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As provided in the original Writ of Certiorari submission to the United States Supreme Court, which was docketed on December 09, 2021 and issued docket number 21-6571, Indigent Pro Se Petitioner Ruben Orlando Benitez has clearly presented the failure of the State of Mississippi to adhere to the Rules of not only the Mississippi Supreme Court, but to the Articles of the Constitution of the State of Mississippi, the State of Mississippi case law precedence, the controlling elements of the United States Constitution, and now, the Rules of the United States Supreme Court and in doing so “has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court’s supervisory power” as illustrated in U.S. Supreme Court Rule 10.(a). There can be no greater departure from justice then to have a Court deny a petitioner access to the Court when a clear denial of a fundamental constitutional right has been openly violated and disavowed by a Court which has repeatedly manipulated the record, openly admitted their errors, and has refused to oppose/contend/argue the undeniable evidence which

was wholly provided by the Prosecuting Attorney of the State of Mississippi, Mississippi Law Enforcement, and the family of the victim: which provides the preponderance of evidence which exonerates Indigent Pro Se Petitioner Ruben Orlando Benitez.

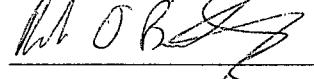
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#### CONCLUSION

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Wherefore premises considered, Indigent Pro Se Petitioner Ruben Orlando Benitez hopes and prays the United States Supreme Court would grant the Writ of Certiorari docketed on December 09, 2021 and obliges the State of Mississippi to order the full relief sought by Indigent Pro Se Petitioner Ruben Orlando Benitez.

Respectfully submitted,

  
\_\_\_\_\_  
Ruben Orlando Benitez  
MDOC # 182157

Sworn to and subscribed before me, this 02 day of March, 2022

Not Available  
Notary