ORIGINAL

No. 21-6772



IN THE

SUPREME COURT OF THE UNITED STATES

JERRY LEE CANFIELD -- PETITIONER

Vs.

BOBBY LUMPKIN, DIRECTOR, TDCJ-CID -- RESPONDENT

# PETITIONER'S MOTION FOR REHEARING TO THE DENIAL OF HIS PETITION FOR A WRIT OF CERTIORARI

JERRY LEE CANFIELD

TDCJ# 01848978

H.H. COFFIELD UNIT

2661 FM 2054

TENNESSEE COLONY, TEXAS 75884-5000

PRO SE LITIGANT

NO PHONE

## QUESTIONS FOR CONSIDERATION TO GRANT REHEARING

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PETITIONER'S MOTION FOR REHEARING TO THE DENIAL OF HIS PETITION FOR A WRIT OF CERTIORARI

Petitioner, Jerry Lee Canfield, respectfully files this motion for rehearing, because the grounds are limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds nor previously presented, and urges this Court to grant rehearing under the light of the new focus points as explained:

I. JURISDICTION:

Petitioner's petition for a writ of certiorari was denied on June 06, 2022, therefore, this Court has jurisdiction to grant rehearing for this document is filed on or before July 01, 2022, as required by **Supreme Court Rule 44.**

II. INTRODUCTION:

Silence! Silence by this Court will effectively approve the misjustice that has occurred, is occurring, and will occur. Silence! Silence by this Court has effectively amended the 6th Amendment to read: "Certian criminal prosecutions has a right to trial by a partial and biased jury." Silence! Silence by this Court now grants all trial courts in the Fifth Circuit the authority to place partial and judgmental people to hear criminal cases with the mindset to require

a defendant to prove innocence beyond a reasonable doubt. QUESTION 1: HOW CAN SILENCE CHANGE A PERSON'S VERBAL EXPRESSION OF BIAS TO VOTE GUILTY "JUST BECAUSE I AM HERE AT TRIAL?" Silence! Silence! This Court must not remain silent and let this evil to pass by, and allow injustice to continue without just correction. For ARTICLE III OF THE UNITED STATES CONSTITUTION demands this Court to resolve the controversies between the government and Petitioner, and between the Fifth Circuit and the many other circuits to the United States holding the contrary.

III. THE PARTIALITY OF A JUROR IS A QUESTION OF FACT, NOT MIXED QUESTION OF LAW AND FACT.

From the beginning, the government argues and held that the partiality of a juror is a mixed question of law and fact. Under the mixed question of law and fact standard, the government is correct that "this Court has never held that a baised juror cannot be rehabilitated through silence in response to group questioning." See Brief in Opposition, Pg. 7. QUESTION 2: WHAT INDICATES TO THIS COURT THAT SILENCE WILL CHANGE A BIASED JUROR'S MINDSET? According to Patton v. Yount, silence does not change a person's mindset to vote guilty before trial even starts.

From the beginning, the Petitioner argues, in which Justice Higginbothom agrees, and this Court has held in Patton that an issue concerning the partiality of a juror is an historical question of fact: Did Juror [Tarver] swear that [she] could set aside any opinion [she] might hold and decide the case on the evidence, and should the juror's protestation of impartiality [not silence] have been believed?" Patton, 104 S.Ct. 2885, 2891 (1984). Being a question of fact there is clearly established Supreme Court authority to grant habeas relief under section 2254(d). This Court must revisit this issue.

Rehearing must be granted and this Court should invite amicus curiae briefs

from Justice Higginbothom, and other Circuit justices and attorney generals/ solicitor generals. This Court must not remain silent and allow the government to declare that silent rehabilitation of a juror constitutes an assurance of impartiality. QUESTION 3: MUST THIS COURT DECLARE THE PARTIALITY OF A JUROR TO BE A QUESTION OF FACT? Compare **Wainwright v. Witt**, 105 S.Ct. 844, 855 (1985)(It will not always be easy to separate questions of "fact" from "mixed questions of law and fact" for § 2254(d) purposes.); **Thompson v. KeaHane**, 116 S.Ct. 457, 465 (1995)(the pratical considerations that have prompted the Court to type questions like juror bias and competency as "factual issue(s)," and therefore governed by § 2254(d)'s presumption of correctness, are not dominant here.).

This Court must not "act like sharks who have caught the scent of blood in the water" because a convicted felon has a right to be tried by an impartial jury, who speaks out and proclaims they can be fair and decide the case on the evidence induced at trial also. This Court clearly established that when a juror verbally expresses an actual bias, it is the duty of Counsel to ask individually whether that juror can verbally express that she could "lay aside her impression or opinion and render a verdict based on the evidence presented in Court." **Compare, Ducan v. Louisiana**, 391 U.S. 145, 149 (1968)("We found this right to trial by jury in serious criminal cases to be fundamental to the American scheme of justice, and therefore applicable to state proceedings."); **Irvin v. Dowd**, 366 U.S. 722 (Citing **In re Oliver**, 333 U.S. 257 (1948)), and **Tumey v. Ohio**, 273 U.S. 510 (1927)("[T]he right to jury trial guranatess to the criminal accused a fair trial by a panel of impartial, indifferent jurors. The failure to accord an accused a fair hearing violates even the minimal standards of due process); & **Patton**, 104 S.Ct. 2884, 2891 (1984)(Juror impartiality is plainly a historical fact to question "did a juror swear that he or she could set aside any opinion [s]he might hold and decide the case on the evidence[.]").

As a result, "Canfield's Counsel was obligated to use a peremptory or for cause challenge on M.T. because he failed to do so, his performance was deficient." Canfield, 998 F.3d at 253.

Further, voir dire is law french for "to speak the truth[,]" and refers to "[a] preliminary examination of a prospective juror by a "trial court" to decide whether [M.T.] is qualified and suitable to serve on a jury." **Voir Dire, Black's Law Dictionary** (10th Ed. 2014). In other words, voir dire means to speak the truth, not remain silent then let Counsel and the Court speculate who could be fair and impartial. **QUESTION 4: WHAT USE COULD VOIRE DIRE EXAMINATION POSSIBLY SERVE WHEN BIASED JURORS REMAIN SILENT?** NONE! The effect is devastating and the cornerstone of our impartial jury right is void. In ringing terms, silence at voir dire selction is just like sending the defendant to the slaughter and requiring him to prove his innocence. **Ducan**, 391 U.S. at 149 (a criminal defendant has a fundamental right to a fair, and impartial, and indifferent jury, being the cornerstone of our justice system, who will verbally state that he or she can lay aside his or her impression or opinion and render a verdict based on the evidence presented at trial.).

On pages 7-8 to Repsondent's Brief in Opposition, the attorney general argues under the mixed question of law and fact: "because there is no Supreme Court authority holding that silent rehabilitation is inappropriate and Texas case law allows for silent rehabilitation:" therefore, as the Respondent erroneously asserts, Counsel was "not deficient because the state Courts reasoned that M.T. was rehabilitated by her silence in response to group questioning." This Court must not remain silent because this Court contrarily reasoned that jurors are ordinary people, they are expected to speak, debate, argue, and make decisions the way ordinary people do in their daily lives. Our Constitution places great value on this way of thinking, speaking, and deciding," not

to remain silent. **Pena-Rodriquez v. Colorado**, 137 S.Ct. 855, 874-75 (2017). Truly, a silent jury deliberation never constitutes a verdict; likewise, silent rehabilitation never constitutes an assurance of impartiality. In ringing terms, silent rehabilitation to a group questioning after speaking out, and expressing actual bias the way ordinary people do, has never been the focus of our Constitution or the many precedent holdings of this Court, and the many other Circuits decisions concerning voir dire selection.

According to Clarence Thomas in **Shinn v. Ramirez** on May 23, 2022, "if your trial lawyer is bad and your appellate lawyer is bad, then you can be put to death even if you are innocent." **See Article "SSupreme Homicide" on The Nation, Vol. 314, No. 13, Pg. 8** (June 23/July 04, 2022)(TheNation.com/register). Silence! By remaining silent and not granting certiorari or rehearing is declaring if your trial lawyer is bad and your appellate lawyer is bad then you can be convicted even by a partial and biased jury. **QUESTION 5: DOES A CRIMINAL DEFENDANT HAVE A CONSTITUTIONAL RIGHT TO AN IMPARTIAL JURY, EVEN IF THE EVIDENCE IS OVERWHELMINGLY ONE-SIDED?** According to the Respondent, the only published decision regarding silent rehabilitation is found in **Leadon v. State**, the Houston Court of Appeals, declared that "venire person are rehabilitated by remaining silent **when they do not** affirmatively state they cannot follow law." **Id.**, 332 S.W.3d 600, 616 (Tex. App. --Houston [14th Dist.] 2010, no pet.). In **Leadon**, no one spoke up like M.T. did! M.T. affirmatively stated that she cannot follow the law because "Canfield is guilty before we even start trial." **Canfield**, 998 F.3d at 252-53. Axiomly stated, the Respondent's argument fails and this case is appropriate, even under the guidelines of Section 2254(d), because this Court's mandatory decisions have always requried a juror to speak out, and state that she can "lay aside her impressions or opinion and render a verdict based on the evidence presented in Court," not to remain silent after her ex-

pression of actual bais. See Canfield, 998 F.3d at 252-53 ("At no point did she clearly express that she could "lay aside h[er] impression or opinion and render a verdict based on the evidence presented in court.")(citing Irvin, 366 U.S. at 723). This is a question of fact, and this Court must declare and grant certiorari and rehearing. Patton, 104 S.Ct. at 2891.

IV. THE FIFTH CIRCUIT MUST FOLLOW THE DOCTRINE OF STARE DECISIS PERTAINING TO AN IDENTICAL FACTUAL SITUATION.

Silence! IS THE SILENT REHABILITATION TO GROUP QUESTIONING CONSIDERED A COMPELLING REASON NOT TO FOLLOW THE DOCTRINE OF STARE DECISIS TO DENY PETITIONER RELIEF, WHERE THE FIFTH CIRCUIT GRANTED FRANK VIRGIL RELIEF ON AN IDENTICAL FACTUAL SITUATION CONCERNING INEFFECTIVE COUNSEL IN FAILING TO CHALLENGE A BIASED JUROR? See Virgil v. Dretke, 446 F.3d 598 (5th Cir. 2006)(The Fifth Circuit used Irvin v. Dowd, to declare Counsel ineffective on both Strickland prongs and declared it to be an unreasonable application under § 2254(d)); Compare Canfield v. lumpkin, 998 F.3d 242, 252-55 (5th Cir. 2021)(M.T., like Sumlin and Sims, demonstrated that she was biased).

This Court must not be silent, and must grant rehearing, certiorari, and invite amicus curiae briefs from Justice Higginbothom, and other Circuit Justices, and attorney generals/solicitors generals. Just as Sonia Sotomayor's dissented in Shinn v. Ramirez, on May 23, a denial will be "perverse" and "illogical" and "makes no sense," to authorize the Fifth Circuit to reconstruct the 6th Amendment to read: "certain criminal prosecutions has a right to trial by a partial and biased jury." Just the other day, this Court struck down New York's gun law that violated the 2nd Amendment's right to bear arms, then allowed citizens to carry concealed weapons, despite all the mass murders of civilians and children. Therefore, QUESTION 7: WHY CANNOT THIS COURT UPHOLD THE 6TH AMENDMENT'S RIGHT TO BE TRIED BY AN IMPARTIAL JURY, WHERE TARVER OPENLY

ADMITTED BIAS AGAINST THE DEFENDANT, DESPITE THE OVERWHELMINGLY ONE-SIDED EVIDENCE AGAINST PETITIONER? This Court must not remain silent to grant relief. QUESTION 8: DOES TWO JUSTICES IN THE FIFTH CIRCUIT HAVE MORE POWER THAN THIS COURT?

Sonia Sotomayer must not remain silent as she declares "our Constitution insists, however, that no matter how henious the crime, any conviction must be secured respecting all Constitutional protections." **See Article: "Supreme Homicide" The Nation, Vol. 314, Number 13, Pg. 10** (June 27/July 04, 2022). To refuse to grant certiorari, and rehearing, has and will infect the United States with a deadly disease to violate all citizens foundational rights to be tried by an impartial jury when accused of a serious crime. **Compare Petitioner's Principle Brief, Pgs. 11-19, & Reply Brief**. QUESTION 9: DOES A CONVICTED FELON'S CONSTITUTIONAL RIGHTS MATTER? For this Court must not remain silent and must reaffirm with clarification what this Court has always ruled: "Once a juror expressed actual bias, that juror must be pinned down and asked individually to verbally speak out; and must declare that she can be fair and impartial by setting aside her impression or opinion and render a verdict based on the evidence presented in Court. **See Irvin**, 366 U.S. at 723 (citing **Spies v. Illinois**, 123 U.S. 131 ; **Holt v. U.S.**, 218 U.S. 245; **Reynolds v. U.S.**, 98 U.S. 145, 155 ("the theory of the law is that a juror who has formed an opinion cannot be impartial.")).

## V. THE PRESENCE OF A BIASED JUROR UNDERMINES CONFIDENCE IN THE RELIABILITY OF THE VERDICT AND THEREBY ESTABLISHES STRICKLANDS PREJUDICE.

This Court must grant certiorari, rehearing, and invite amicus curiae briefs to establish what the law is regarding juror bias, even if the Court denies Petitioner relief as this Court has in **Strickland**; therefore, QUESTION 10: CAN A CRIMINAL DEFENDANT SHOW PREJUDICE BY FUNDAMENTAL UNFAIRNESS UNDER STRICKLAND?

At the beginning, Counsel told the Panlist's how to get on the jury: "Let me

just let you in on a little secret like I say, we get to strike ten people, and it's usually because of something you say to us. So the quiet people really— I mean, seriously, the quiet people are probably going to be over here." See Attachment B. Counsel effectively told Tarver to remain silent. Id. Further, the group questioning the State and Fifth Circuit keeps referring to, left out very important statements that Counsel kept attaching to those burden of proof/presumption of innocence group questions as laid out by the Fifth Circuit: "Anyone else other than those that we've talked about -- that Mr. Nickols talked about earlier -- talked to earlier who says, I just don't know if I can give him that presumption of innocence." Also termed "for the group" we have not questioned yet. Compare Canfield, 998 F.3d at 244-45. See Attachment C. These statements here told Tarver that she did not have to say anything further because she already expressed her actual bais. See Attachment D. Again, Mr. Brookins said: "I probably couldn't give [Petitioner] a fair trial." Counsel responded, as well with others, the proper rehabilitation method and said "we have to have a definitive answer." I'm not trying to back you in a corner. But **if i had to ask** you a point blank can you give him a fair trial, can you? See Attachment E.

Truly, Counsel believed he had no duty to individually ask each juror "can you be fair and impartially review the evidence at trial?" Counsel reveals a mindset that he is not obligated to question whether a panelist can be fair and impartial. **Patton v. Yount**, however, speaks against this ratinale. Id., 104 S.Ct. at 2891 (Juror impartiality is plainly a question of historical fact: "Did [Tarver] swear that [s]he could set aside any opinion [s]he might hold and decide the case on the evidence[.]"). Nevertheless, **QUESTION 11: COUNSEL STILL AS ASKED MR. BROOKINS WHETHER HE COULD BE FAIR, WHY COULDN'T COUNSEL SIMPLY ASK THE SAME OF MS. TARVER, UNLESS HE HAD A MINDSET OF AGREEMENT WITH NOT TESTING THE STATE'S CASE TO AN ADVERSARIAL TESTING?** Contrary to Counsel's mindset,

Justice Higginbothom relying on the stare decisis doctrine using an identical case, namely **Virgil v. Dretke**, declared: "Counsel was obligated to use a pre-emptory or for-cause challenge on M.T." **See Canfield**, 998 F.3d at 252-53.

Further, Counsel was confused that he had "ten challenges for cause." **See Tex. Code Crim. Proc. Ann. Art. 35.15(b) & 35.16** (limiting peremptory strikes to ten but not mentioning a limit on for-cause strikes). Contrary to this confusion, Counsel told the panel "we have 10 strikes for whatever we want." **RR2, 87**. Just like in **Virgil** where Counsel did not elaborate on why he didn't challenge the jurors for cause, Petitioner's Counsel did not elaborate either on the matter because he is simply wrong. Although the majority says Petitioner forfeited this fact, the state never address it either. Therefore, this Court must review this fact de novo and for plain error. Truly, in **Hinton v. Alabama**, this Court declared that "an attorney's ignorance of a point of law that is fundamental to his case combined with his failure to perform basic research on that point is a quintessential example of unreasonable performance under **Strickland**. **Hinton**, 134 S.Ct. 1081, 1089-90 (2014).

If it is revealed in voir dire that Counsel acted with ignorance of two points of law combined with his failure to use peremptory strike or for-cause challenge on Tarver. Then, **QUESTION 12: WHAT INDICATES TO THIS COURT THAT COUNSEL ACTED SUFFICIENTLY WITHOUT ANY PREJUDICE DURING TRIAL AND NOT TO UNDERMINE CONFIDENCE OF THIS COURT?** The Fifth Circuit pointed out that "Counsel did not impeach the State's witnesses or otherwise cast doubt on the veracity of their testimony. Counsel did not offer any witnesses on behalf of Petitioner. And as a result, the jury convicted within 30 minutes or an hour of deliberation." **Canfield**, 998 F.3d at 248-49. And the Fifth Circuit concluded that "based on this overwhelmingly one-sided evidence, there is no reasonable probability that, but for M.T.'s presence, the jury would have acquitted." **Id**.

The Fifth Circuit's statement proves that there is ample evidence that Counsel failed to subject the State's case to an adversarial testing as described in **Cronic**. See **U.S. v. Cronic**, 104 S.Ct. 2039, 2045-46 (1984)(The adversarial process protected by the Sixth Amendment requires that the accused have "Counsel acting in the role of an advocate," the right of the "accused to require the prosecution's case to survive the crucible of meaningful adversarial testing."). Counsel could not impeach any of the State's witnesses because he was not prepared. A simple investigation and interview to both M.C.'s brother and sister would have proved their testimony carries impeaching evidence. Being unprepared, Counsel's cross-examination was impaired and ineffective. Counsel could have inquired funds for an expert to test the expert that said "a child who was coaxed would be unlikely to know detailed sensory information." One more look at the victim's testimony by this Court will show that M.C.'s testimony was laced with recanting testimony, that seemed to be coaxed. And if it was not coaxed, why would the victim question the State on whether he made noises or not? Therefore, Counsel was unprepared to go against the State expert. Also, by being unprepared he presented no witnesses on Petitioner's behalf. Counsel's conduct, here, so undermines the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result. **Strickland**, 466 U.S. 668, 686, 104 S.Ct. 2052. Absent the effective assistance of Counsel, this Court must conclude that a "serious risk of injustice infected Petitioner's trial itself." **Cuyler v. Sullivan**, 466 U.S. 335, 343 (1980).

This Court must grant rehearing and invite amicus curiae briefs because under the stare decisis doctrine, the Fifth Circuit's inquiry has always rested "on the assumption that the decisionmaker is reasonably, conscientiously, and impartially applying the standards that govern the decision." **Virgil**, 446 F.3d at 612 (quoting **Strickland**, 466 U.S. at 695).

In **Virgil**, the Fifth Circuit found that the same failure Petitioner indentifies resulted in **Strickland** prejudice and an "unreliable trial." In Particular, Counsel's failure to challenge two jurors who "unequivocally expressed that they could not sit as fair and impartial jurors" deprived **Virgil** of "a jury of persons willing and able to consider fairly the evidence presented." **Id.**, 446 F.3d at 613 (quoting **Strickland**, 466 U.S. at 696). The Fifth Circuit observed that "[no] question was put to either Sumlin or Sims as to whether they would be able to set aside their preconceived notions and adjudicate **Virgil's** matter with an open mind, honestly and competently considering all the relevant evidence. **Id.** Thus, the Court could not "know the effect [that] Sumlin's and Sim's bias had on the ability of the remaining ten jurors to consider and deliberate, fairly and impartially, upon the testimony and evidence presented at **Virgil's** trial." **Id.** Unable to sustain **Strickland's** presumption of an impartial jury, the Fifth Circuit concluded that they "lack[ed] confidence in the adversarial process that resulted in Virgil's felony conviction and 30 year sentence." **See also, Biaga v. Valentine**, 265 Fed. App.'x 166, 172 (5th Cir. 2008)(per curiam)(unpublished)(citing **Virgil**)("[T]he effect that [the biased juror's] presence on the jury had on the ability of the remaining jurors to consider and evaluate the testimony and evidence will never be known. Given this uncertainty, [the habeas Petitioner's] conviction is unworthy of confidence and, as such, constitutes a failure in the adversarial process.").

The same is true for Petitioner. As a result of Counsel's error, a juror who expressed a preconception of Petitioner's guilt and unwillingness to hold the State to its burden of persuasion, and who was not clearly rehabilitated on either point, sat on the jury that first convicted Petitioner and then sentenced him to 50 years' imprisonment without parole. **Cf. Virgil**, 466 F.3d at 612-13. The law, however, mandated that the juror be willing to lay aside her precon-

ceptions. See Irvin, 366 U.S. at 723. Because M.T. was never asked if she could do so and there is no record evidence that she in fact did so, Counsel's failure to challenge her denied Petitioner an impartial jury. Virgil, 466 F.3d at 613. No one can say how a jury would have decided the case absent Tarver. It only takes one for a mistrial, therefore, it must only take one for a new trial. See Parker v. Gladden, 385 U.S. 363 (1966). In fact, the trial judge two weeks prior to Petitioner's instant case declared a mistrial because a "juror informed the Court on the first day testimony was slated to begin that she could not be fair because she was biased." RR2, 7. Taken together, the presence of a biased juror undermines confidence in the reliability of the verdict and thereby establishes prejudice. Virgil, 466 F.3d at 613-14; Strickland, 466 U.S. at 689, 696. This Court should revisit this issue and once again clarify to the lower Courts that a defendant can prove prejudice through fundamental unfairness as this Court established in Strickland or overrule Strickland in part. Id.

VI. ALTERNATIVELY THE PRESENCE OF A BIAS JUROR MUST NOT BE SUBJECT TO HARMLESS-ERROR/PREJUDICE ANALYSIS.

In the alternative there is a compelling interest for this Court to grant rehearing, certiorari, and invite amicus briefs to resolve the conflict among the Circuits on the 13th Question of WHETHER "A BIAS JUROR IS NOT SUBJECT TO HARMLESS-ERROR ANALYSIS ON HABEAS? According to the following courts decisions "a bias juror is not subject to harmless analysis." Andre v. Jones, 2017 U.S. Dist. Lexis 87468 (S.D. Fla.); Johnson v. Russo, 2017 U.S. Dist. Lexis 184931 (Mass.); Rosa v. Sec'y, Dep't of Corr., 2017 U.S. Dist. Lexis 20319 (M.D. Fla); United States v. French, 904 F.3d 111 (1st Cir. 2018); Blankenburg v. Miller, 2017 U.S. Dist. Lexis 93840 (S.D. OH.).

However, the Fifth Circuit held in Canfield v. Lumpkin, that "even if a juror is biased, the issue is subjected to harmless-error analysis. Id., 998

F.3d at 248. This Court needs to resolve this conflict and grant rehearing and certiorari to properly instruct and refresh the lower Courts on the past decisions of this Court in: **Parker v. Gladden**, 385 U.S. 363 (1966); **Dennis v. U.S.**, 339 U.S. 162 (1950); **Ducan v. Louisiana**, 391 U.S. 145 (1968); **Gomez v. U.S.**, 490 U.S. 858 (1989); **Gray v. Mississippi**, 481 U.S. 648 (1987); **Irvin v. Dowd**, 366 U.S. 717 (1961); **Patton v. Yount**, 104 S.Ct. 2884 (1984); **Turner v. Louisiana**, 379 U.S. 466 (1965); **Tumey v. Ohio**, 273 U.S. 510 (1927).

**VII. CONCLUSION.**

In conclusion, the pressure of overturning **Roe v. Wade** is over! This Court therefore must take the time to individually revisit Petitioner's petition for writ of certiorari, reply to Respondent's Brief in Opposition, GRANT rehearing to answer any questions herein, grant certiorari, and invite amicus curiae briefs from Justice Higginbothom, Justices in other Circuits, and Attorney Generals/ Solicitor Generals. For it is not right for Texas to place an innocent man in prison, for 50 years without parole, be means of putting ineffective Counsel who refuses to subject the State's case to an adversarial testing, then place biased jurors to require defendant to prove his innocence beyond a reasonable doubt. Again, no one can say how a jury would have decided the case absent Tarver. It only takes one for a mistrial, it therefore must take one for a new trial! This Court must not remain silent and must not allow Texas to deprive its citizens of all Constitutional protections that Sonia Sotomayer has spoken of.

**XIII. PRAYER FOR RELIEF:**

This Court should and must individually review Petitioner's petition for writ of certiorari again, reply brief again, and this motion, then GRANT rehearing, grant certiorari, revisit the compelling issues at bar. And/or invite amicus briefs from Justice Higginbothom, Justices in other Circuits, Attorney Generals/Solicitor Generals, and from any school of law to aid in finding the

just result to GRANT relief as stated and speak up to address the United States for justice requires it. Justice requires this Court to speak up and GRANT rehearing.

Respectfully submitted,

Jerry Lee Canfield
#01848978 - Coffield Unit
2661 FM 2054
Tenn. Colony, Texas 75884-5000
Pro se Litigant.

## IX. INMATE DECLARATION

I, Jerry Lee Canfield, TDCJ# 01848978, being incarcerated in the TDCJ-CID Coffield Unit in Anderson County, Texas, declares under the penalty of perjury that the foregoing above is true and correct. Executed on this 29 day June, 2022.

Jerry Lee Canfield
#01848978 - Coffield Unit
2616 FM 2054
Tenn. Colony, Texas 75884-5000
Pro se Litigant.

No. 21-6772

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Respondent.

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CERTIFICATION OF A PARTY UNREPRESENTED BY COUNSEL

AS REQUIRED BY RULE 44.2

Petitioner, Jerry Lee Canfield, unrepresented by Counsel hereby certifies to this Court that the grounds or issues presented in his motion for rehearing arerestricted to the grounds specificated in Rule 44 which are limited to intervening cicumstances of a substantial or controlling effect or to other substantial grounds not previously presented. Thus, the Petitioner's motion for rehearing is presented to this Court in good faith and not for delay, but to seek for justice to be upheld.

I, Jerry Lee Canfield, being incarcerated in the TDCJ-CID Coffield Unit in Anderson County, Texas, declares that the foregoing is true and correct under the penalty of perjury. Executed on this 29 day of June, 2022.

Jerry Lee Canfield
#01848978 - Coffield Unit
2661 Fm 2054
Tenn. Colony, Texas 75884
Pro se litigant.

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BOBBY LUMPKIN, DIRECTOR - RESPONDENT

## DECLARATION OF INMATE FILING

I am an inmate confined in an institution.Today the 29 day of June 2022, I am depositing the Petitioner's motion for Rehearing to the denial of his Writ of Certiorari, informa puauperis, certificate of service, certificate of compliance, certification of counsel in this case into the institution's internal mailing system. First-class postage is being prepaid either by me or by the institution on behalf. See Richard v. Thaler, 710 F.3d 573, 579 (5th Cir. 2013)(quoting Houston v. Lack, 487 U.S. 266, 270 (1988)).

I declare under the penalty of perjury that the foregoing above is true and correct. 28 U.S.C. § 1746; 18 U.S.C. § 1621. Ececuted on this 29 day of June 2022.

Jerry Lee Canfield
#01848978 - Coffield Unit
2661 FM 2054
Tenn. Colony, Texas 75884-5000
Pro se litigant.

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SUPREME COURT OF THE UNITED STATES

JERRY LEE CANFIELD - PETITIONER

Vs.

BOBBY LUMPKIN, DIRECTOR - RESPONDENT

## CERTIFICATE OF COMPLIANCE

I certify that this document is in compliance with the rules of this Court because the document is 14 pages and does not exceed the maximum of 15 pages as stated in Supreme Court Rule 33.2(b). Excluding parts exempt.

I, Jerry Lee Canfield, TDCJ #01848978, Petitioner in the above -styled and -numbered, being incarcerated in the TDCJ-CID Coffield Under the penalty of perjury. Executed on this 29 day of June 2022.

Jerry Lee Canfield
TDCJ #01848978 - Coffield Unit
2661 FM 2054
Tenn. Colony, Texas 75884
Pro se litigant.

NO. 21-6772

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SUPREME COURT OF THE UNITED STATES

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Vs.

BOBBY LUMPKIN, DIRECTOR - RESPONDENT

CERTIFICATE OF SERVICE

I, certify that one true and correct copy of the Petitioner's Motion for Rehearing to the denial of hsi petition for a writ of certiorari, has been served to the Respondent's Counsel, addressed below, by placing the document into the U.S. Mail, with first-class postage prepaid and certified mail return receipt requested:

Office of the Texas Attorney General
Criminal Appeals Division
ATTN: Ms. Jessica Manojlovich
P.O. Box 12548, Capitol Station
Austin, Texas 78711-2548

Certified Mail #7020-640-0000-4619-4690
Return Receipt #9590-9402-5949-0062-5967-11

I, Jerry Lee Canfield, TDCJ #01848978, Petitioner in the above -styled and -numbered cause, being incarcerated in the TDCJ-CID H.H. Coffield Unit in Anderson County, Texas, declares that the above Certificate of Service has been executed on this 29 day June 2022, under the penaly of perjury.

Jerry Lee Canfield
#01848978 - Coffield Unit
2661 FM 2054
Tenn. Colony, Texas 75884-5000
Pro se litigant.