

IN THE UNITED STATES SUPREME COURT

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APPEAL NO: APPLICATION NO: 21A682

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RODNEY DEON BETHANY

v.

UNITED STATES OF AMERICA

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On MOTION FOR EXTENSION OF TIME  
TO FILE PETITION FOR REHEARING AND  
REHEARING EN BANC

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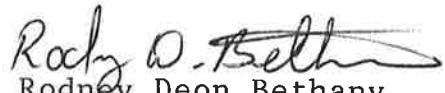
Rodney Deon Bethany, the appellant, in pro se, in necessity, hereby files his Motion requesting an extension of time to file a Petition for Rehearing and/or Rehearing en banc. Mr. Bethany relies on Rules 26(b) and 27 as basis for his request. This court should issue an order for extension of time based on the following:

- 1). Mr. Bethany received a copy of this court's decision in the above titled action on the 17th day of may, 2022.
- 2). He is a pro se litigant with no legal training or legal experience in these proceedings.
- 3). He is an inmate in the Texas state criminal justice system, which is currently on lock down, which causes him to only have limited access to legal research material and resources.
- 4). This motion is made in the interest of justice and not meant to delay the proceedings.

Wherefore, based on the above, Mr. Bethany moves this court to "GRANT" his motion and asks this Court to issue an order

granting a 30 day extension of time.

Respectfully Submitted on this 17th day of May, 2022.



Rodney Deon Bethany  
#1221925 Estelle Unit  
264 F.M 3478  
Huntsville, Texas 77320

UNSWORN DECLARATION

I, Rodney Deon Bethany, TDCJ-Id # 1221925, being presently incarcerated at the Estelle Unit of the Texas Department of Criminal Justice-Inst Div in Walker County, Huntsville, Texas, declare under penalty of perjury that the above and foregoing is true and correct to the best of my knowledge and beliefs.

Executed this 17th day of May, 2022.

ss/ Rodney D. Bethany  
Rodney Deon Bethany  
TDCJ-Id # 1221925 Estelle  
264 F.M 3478  
Huntsville Texas 77320

CERTIFICATE OF SERVICE

I, Rodeny Deon Bethany, do hereby certify that a true and correct copy of the above and foregoing "MOTION FOR EXTENSION OF TIME" have been served on the following person;

SCOTT S. HARRIS Clerk of the court  
SUPREME COURT OF THE UNITED STATES  
WASHINGTON, DC 20543-0001

by placing same in the prison unit legal mail box for mailing through the U.S mail, first class postage prepaid, on this 17th day of May, 2022.

ss/ Rodney D. Bethany  
Rodney Deon Bethany  
#1221925 Estelle Unit  
264 F.M 3478  
Huntsville, Texas  
77320

United States Court of Appeals  
for the Fifth Circuit

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No. 21-10960

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United States Court of Appeals  
Fifth Circuit

**FILED**

March 2, 2022

Lyle W. Cayce  
Clerk

RODNEY DEON BETHANY,

*Petitioner—Appellant,*

*versus*

BOBBY LUMPKIN, *Director, Texas Department of Criminal Justice,  
Correctional Institutions Division,*

*Respondent—Appellee.*

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Application for Certificate of Appealability from the  
United States District Court for the Northern District of Texas  
USDC No. 3:20-CV-3031

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ORDER:

Rodney Deon Bethany, Texas prisoner # 1221925, moves this court for a certificate of appealability (COA) to appeal the district court's denial of his Federal Rule of Civil Procedure 60(b) motion that he filed following the district court's dismissal of his 28 U.S.C. § 2254 application as an unauthorized successive application. In his motion, Bethany contested our prior ruling denying authorization to file a successive application in order to challenge his life sentence for robbery and aggravated robbery of an elderly person on the basis of newly discovered evidence in the form of recanted testimony, prosecutorial misconduct, and ineffective assistance of counsel.

No. 21-10960

*See In re Bethany*, No. 21-10130 (5th Cir. June 16, 2021) (unpublished). He reasserts the same argument in his COA motion.

To obtain a COA, Bethany must make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). That is, he must establish that reasonable jurists would find the decision to deny relief debatable or wrong, *see Slack v. McDaniel*, 529 U.S. 473, 484 (2000), or that the issues he presents “are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). To obtain a COA from the denial of a Rule 60(b) motion, he must demonstrate that reasonable jurists could debate whether the district court abused its discretion in denying him relief from the judgment. *See Hernandez v. Thaler*, 630 F.3d 420, 428 (5th Cir. 2011). Bethany has not made the requisite showing. Accordingly, his motions for a COA and for the appointment of counsel are DENIED.

*/s/ James E. Graves, Jr.*  
JAMES E. GRAVES  
*United States Circuit Judge*