

Case No. 22-6727

IN THE  
SUPREME COURT OF THE UNITED STATES

KENNETH BALDWIN,  
Petitioner,

Vs.

RICKY D. DIXON,  
SECRETARY, FLORIDA  
DEPARTMENT OF CORRECTION,  
Respondent.

PETITION FOR REHEARING  
PURSUANT TO RULE 44

KENNETH BALDWIN #Y01245  
Sumter Correctional Institution  
9544 County Road 476B  
Bushnell, Florida 33513

Petitioner, Pro-Se

## **CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT**

Pursuant to Rule 29.6 and Petitioner proceeds as Pro se an states that the following trial judges, attorneys, persons associations of persons, partnership or corporation have an interest in the outcome of this case:

1. Altenbernd, Hon. Christopher W., Florida 2DCA
2. Benoit-Knox, Laurie, Assistant Attorney General
3. Blue, Hon. Jhon R., Florida 2DCA
4. Bondi, Hon. Pamela Jo, Former Attorney General of Florida
5. Buchanan, Hon. Laurie E., Circuit Court Judge (19th Judicial Cir.)
6. Butterworth, Hon. Robert A., Former Attorney General of Florida
7. Casanueva, Hon. Darryl C., Florida 2DCA
8. Cella, Noelle, Assistant State Attorney
9. Chappell, Sheri Polster, Assistant State Attorney
10. Conner, Hon. Burton C., Florida 4DCA
11. Crenshaw, Hon. Marva L., Florida 2DCA
12. Dalton, Kevin D., Assistant State Attorney
13. Damoorgian, Hon. Dorian K., Florida 4DCA
14. Davis, Hon. Charles, Florida 2DCA
15. Dimmig II, Hon. Howard L., PD (10th Judicial Circuit)
16. Duryea, Hon. Jhon E., Court Judge (20th Judicial Circuit)
17. Ellis, Hon. Cynthia A., Circuit Court Judge
18. Feinberg, Daniel P., Assistant State Attorney
19. Fishkin, Richard M., Assistant Attorney General
20. Forst, Hon., Florida 4DCA
21. Fulmer, Hon. Carolyn K., Florida 2DCA
22. Green, Hon. Oliver L., Florida 2DCA
23. Gross, Hon., Florida 4DCA
24. Hawthorne, Hon. Amy, Circuit Court Judge
25. Kelly, Hon. Patricia J., Florida 2DCA
26. Kirshy, Russell T., Assistant State Attorney

27. Koclanes, Peter, Assistant Attorney General
28. Kyle, Hon. Keith R., Circuit Court Judge
29. LaRose, Hon. Edward C., Florida 2DCA
30. Levine Hon. Spencer D., Florida 4DCA
31. Mason, Hon. Donald H., Circuit Court Judge
32. Moorman, Hon. James Marion, PD Tenth Judicial Circuit
33. Norgard, Andrea, Appellate Counsel
34. Northcutt, Hon. Steven T., Florida 2DCA
35. Olson, Megan, Florida 2DCA
36. Pellecchia, Hon. Donald E., Circuit Court Judge
37. Rook, Tonja V., Assistant Attorney General
38. Rothstein-Youakim, Hon. Susan H., 2DCA
39. Russell, Hon. Stephen B., State Attorney (20th Judicial Circuit)
40. Salario, Hon. Samuel J., Florida 2DCA
41. Shanahan, Susan M., Assistant Attorney General
42. Silberman, Hon. Morris, Florida 2DCA
43. Sleet, Hon. Daniel H., Florida 2DCA
44. Steele, Hon. John E., Senior U.S. District Judge
45. Stephan, Jessica, Assistant Attorney General
46. Sullivan, Paul D., Trial Counsel
47. Taylor, Cerese Crawford, Assistant Attorney General
48. Thompson, Nicholas R., Hon Circuit Court Judge
49. Villanti, Hon. Craig C., Florida 2DCA
50. Wells, Sheron, Assistant General Counsel for FDOC
51. Whatley, Hon. James W., Florida 2DCA
52. Luck, Hon. Georgia (11th Circuit Court Judge)
53. Brasher, Hon., Georgia (11th Circuit Court Judge)
54. Edmondson, Hon., Georgia (11th Circuit Court Judge)

## GROUNDS

Petitioner Kenneth Baldwin *pro se* proceeds for Rehearing pursuant to Rule 44 and respectfully present to an individual Justice Jackson of the Supreme Court for suspension of an order deny a certiorari on 17 day of April 2023 and bring the attention to the Justice of the Supreme Court on substantial ground in which was not available at the time of the Petitioner last filing of his Writ of Certiorari. Furthermore the Petitioner point out serious conflict of the United States Court of Appeals for the Eleventh Circuit is contrary with United States Supreme Court Case Law and a response for consideration of judgment on the merits is warranted and whether there any reasonable likelihood of the court changing its position and granting Rehearing on compelling reason as follows:

The panel decision of the United States Court of Appeal for the Eleventh Circuit Per Curiam Affirmed. *Baldwin v. Secy. Fla. Dept. of Corr.*, 2021 U.S. Dist. LEXIS 106156 on June 7, 2021 where the Petitioner presented the question as to whether the Resentencing of October 15, 2012 in which the original oral pronouncement and new sentence pronounce count one to be concurrent to count two by the state court vacated count two on multi-count judgment create a new judgment under 2244 and 2254 thereby restarting the one year federal clock pursuant to *Magwood v. Patterson*, 561 U.S. 320, 331-33, 130 S. Ct. 2788, 177 L.

Ed. 2d 592 (2010); *Burton v. Stewart*, 549 U.S. 147, 127 S. Ct. 793, 166 L. Ed. 2d 628 (2007) and *Deal v. United States*, 549 U.S. 149, 113 S. Ct. 1993 (1993).

The United States Court of Appeal for the Eleventh Circuit is also in conflict that has been address by other Circuit Court of Appeals with differing conclusion. Citing *Johnson v. United States*, 623 F.3d 41 (2d Cir. 2010); *United States v. Lopez-Alvarez*, 842 F. App'x 167, 168 (9th Cir. 2021); citing *Wentzell v. Neven*, 674 F.3d 1124 (9th Cir. 2012).

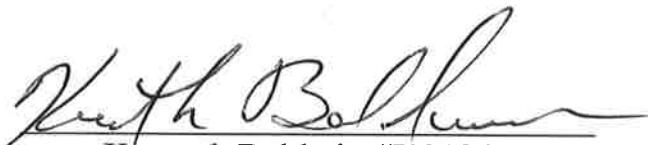
The United States District Court Northern District of Florida did rendered a ruling in *Cassidy v. Dixon*, 2022 U.S. Dist. LEXIS 21710 was decide on February 7, 2022 by the District judge to adopt the Magistrate recommendation and report that Certified to the United States Court of Appeal for the Eleventh Circuit with question as to whether the state court's vacating of one count of a multi-count judgment created a new judgment under 2244(d) and 2254 thereby restarting the one year federal clock. *See Cassidy v. Inch*, 2021 U.S. Dist. LEXIS 196198 decide on August 16, 2021.

All two case's are unpublished opinion and challenge the new judgment and United States Court of Appeal refused to restart the one year federal clock and deemed when a state court resentence one count and enter a new judgment it is a second and successive petition under 2244 and 2254.

Here, reasonable jurist could debate what the United States Court of Appeal for the Eleventh Circuit Per Curiam Affirmed of Mr. Baldwin § 2254 petition, although reasonable jurist would not debate whether Mr. Baldwin was entitled to tolling or where oral pronouncement did authorize custody in the new judgment because the sentence is pronounce concurrent on each count is base on Supreme Court case law as an exception. Moreover, Mr. Baldwin petition raised several claims of oral pronouncement that constituted a new judgment facially stated at least one valid claim of denial of a constitutional right pursuant to *Magwood v. Patterson*, 561 U.S. 320 (2010).

### **Conclusion**

The petition for rehearing should be granted.



Kenneth Baldwin #Y01245  
Sumter Correctional Institution  
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Date: May 18 2023.

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Respondent.

CERTIFICATE

I Kenneth Baldwin, do swear or declare that on this date of May 18<sup>th</sup> 2023 as required by Supreme Court Rule 29 is grounds on intervening circumstance of a substantial or controlling effect or to other substantial grounds not previously presented, and certify that the petition for rehearing is presented in good faith and not for delay pursuant to Rule 44 on each party to the above proceeding or that party's counsel and on every other person to be served by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid or by deliver to a third-party commercial carrier for delivery with 3 calendar days.

The names and address of those are as follows: Solicitor General of the United States, Room 5614, Department of Justice, 950 Pennsylvania Avenue NW, Washington, D.C. 20530-0001.

I declare in compliance with 28 USC § 1746 under penalty of perjury that the foregoing is true and correct.

Executed on May 18<sup>th</sup> 2023.

Kenneth Baldwin  
Kenneth Baldwin #101245

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PROVIDED TO  
SUMTER CORRECTIONAL INSTITUTION  
DATE 5-18-23  
OFFICER INITIALS AB KB

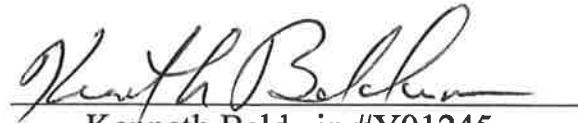
PROOF OF SERVICE

I Kenneth Baldwin, do swear or declare that on this date May 18 <sup>th</sup> 2023, as required by Supreme Court Rule 29. I have served the enclosed Letter to the Clerk on each party to the above proceeding or that party's counsel and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly address to each and with first-class postage prepaid or by deliver to a third-party commercial carrier for delivery with 3 calendar days.

The names and address of those are as follows: Solicitor General of the United States, Room 5614, Department of Justice, 950 Pennsylvania Avenue N.W., Washington, D.C. 20530-0001.

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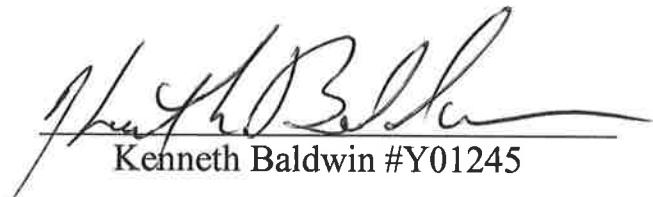
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LETTER TO THE CLERK

The Petitioner Kenneth Baldwin *pro se* respectfully submits a Letter to the Clerk who will transmit a Petition for Rehearing pursuant to Rule 44, is presented to an individual Justice Jackson of the Supreme Court pursuant to Rule 22 and 30.3, from the Petitioner requesting to the Justice for a response to a judgment on the merits.



Kenneth Baldwin #Y01245