

No. 22-7661

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IN THE  
SUPREME COURT OF THE UNITED STATES

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Michael David Beiter, Jr. — PETITIONER  
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A REHEARING TO

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THE UNITED STATES SUPREME COURT  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR REHEARING

Michael David Beiter, Jr.  
(Your Name)

FCI Bennettsville, P.O. Box 52020  
(Address)

Bennettsville, SC 29512  
(City, State, Zip Code)

N/A  
(Phone Number)

### **QUESTION(S) PRESENTED**

1. Whether a defendant who is prevented by the lower courts to obtain his/her case file and discovery material from a counsel who made statements that would provide such documents constitute a due process violation to such defendant's Fifth Amendment right.

## 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:

The Petitioner herein, who was the Defendant-Appellant below, is Michael David Beiter, Jr., henceforth, Mr. Beiter, Jr. The Respondent herein, which was the Plaintiff-Appellee below, is the United States of America.

## RELATED CASES

This case arises from the following proceedings in the United States Court of Appeals for the Eleventh Circuit and the United States District Court for the Southern District of Florida, Ft. Lauderdale Division:

United States v. Michael David Beiter, Jr.

Case No. 22-11978

United States v. Michael David Beiter, Jr.

Case No. 0:09-CR-60202-JIC

## INDEX TO APPENDICES

APPENDIX 1 - Supreme Court denial on June 26th, AD2023

APPENDIX 2 - District Court Order (ECF No. 213)

APPENDIX 3 - Federal Public Defender's Office Response to District Court Order (ECF No. 230)

APPENDIX 4 - District Court Denial (ECF No. 253)

APPENDIX 5 - Appellate Court Opinion of January 1st, AD2023

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR REHEARING

Petitioner respectfully prays that a Petition for Rehearing  
issue to review the judgment below.

OPINIONS BELOW

[X] For cases from the Supreme Court

The denial of the United States Supreme Court on June 26,  
AD2023. Appears at Appendix 1.

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth Amendment to the U.S. Constitution provides:  
"No person shall...be deprived of life, liberty, or property,  
without due process of law...."

The Sixth Amendment to the U.S. Constitution provides:  
"In all criminal prosecutions, the accused shall enjoy the right  
to a speedy and public trial, by an impartial jury of the state  
and district wherein the crime shall have been committed, which  
district shall have been previously ascertained by law, and to be  
informed of the nature and cause of the accusation; to be  
confronted with the witnesses against him; to have compulsory  
process for obtaining witnesses in his favor, and to have the  
assistance of counsel for his defense."

The American BAR Association Standards for Criminal  
Justice, Defense Functions Standards and Commentary provide: "The  
resounding message is that defense attorneys because of their  
intimate knowledge of the trial proceedings and their possession  
of unique information regarding possible post-conviction claims,  
have an OBLIGATION to cooperate with the client's attempt to  
challenge their convictions." (emphasis added).

## **STATEMENT OF THE CASE**

On June 26th, AD2023, the Supreme Court denied the Petitioner's Writ of Certiorari (see APPENDIX 1).

This Petition for Rehearing seeks that the lower courts have a bright line decision in which they may make sure that a reasonable time be imposed to counsel in order to prevent unnecessary delays, or worse, the wanton delay of providing material which counsel offered to provide. This Court must consider that justice delayed, is justice denied.

## **REASONS FOR GRANTING THE PETITION**

The facts on record at both the district court and appellate court are ascertainable with even a cursory view of said records. With regards to Discovery material and the Petitioner's quest to receive said materials, the following took place-

1. The district court ordered the Federal public Defender's Office to respond to the Petitioner's request for Discovery material (see Appendix 2);

2. The Federal Public Defender's Office agreed to provide the Discovery material (see Appendix 3);

3. Asserting that the Petitioner failed to reply to the Federal Public Defender's Office's Response agreeing to provide said material, and as the Petitioner, patiently, awaited for such material to be mailed to him, the district court STOPPED via denial such Discovery material from being mailed to the Petitioner (see Appendix 4);

4. Even though the district court prevented the Discovery material from being provided to the Petitioner, without supporting its ruling with case law or precedent, the appellate court, against its own jurisprudence and this Court's jurisprudence, upheld the district court's actions under the false premise that there was no "live controversy." Thus ignoring the facts on record and the appeal itself. (see Appendix 5).

Today, the Petitioner seeks a Petition for Rehearing on this matter, for if this Court allows the lower courts to continue practices such as the one here, then defendants similarly situated as the Petitioner will be denied their right to properly



defend themselves in showing the sentencing errors in their cases. This would be against the Constitution's heart of guaranting the pursue of life and happinness. This Court is urged to take action and reassess the case at hand.

CONCLUSION

The Petition for Rehearing should be granted.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "MDJR", is written over a horizontal line.

Michael David Beiter, Jr.

Reg. No. 91383-004

FCI Bennettsville

P.O. Box 52020

Bennettsville, SC 29512

Date: July 17th, AD2023

NOTICE OF INMATE FILING

The Petitioner, Michael David Beiter, Jr., is confined in an institution. Today, July 17, Year of YAHWEH 2023, the Petitioner is depositing his PETITION FOR REHEARING in the institution's internal mail system. First Class postage, prepaid, affixed thereto.

The foregoing has been mailed to the Court via USPS Certified Mail No. 7018 1130 0000 7465 1240

The foregoing complies with the provisions set forth in Houston v. Lack, 487 U.S. 266, 108 S.Ct. 2379, 101 L.Ed. 245 (1988), as the Petitioner's filin is within the allotted period of time in order to file a Petition for Rehearing according to this Court's rules.

Executed on this 17 day of July, Year of YAHWEH 2023.



Michael David Beiter, Jr. PRO SE

Reg. No. 91383-004

FCI Bennettsville

P.O. Box 52020

Bennettsville, SC 29512

CERTIFICATE OF PARTY UNREPRESENTED BY COUNSEL

This Petition is restricted to the grounds specified at Rule 44(1)(2), and is presented in good faith and not for delay.

Executed on this 17 day of July, Year of YAHWEH 2023.



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Michael David Beiter, Jr. PRO SE

Reg. No. 91383-004

FCI Bennettsville

P.O. Box 52020

Bennettsville, SC 29512

**Additional material  
from this filing is  
available in the  
Clerk's Office.**