

EXHIBIT E

PRESIDENTS EX OFFICIO OF THE NATIONAL ORGANIZATION
OF CRIMINAL DEFENSE LAWYERS

September 17, 2022

Chief Justice John G. Roberts, Jr.
United States Supreme Court
1 First Street, NE
Washington, DC 20543

Re: Application of Kenneth Ravenell for Bail Pending Appeal in
U.S. v. Ravenell, No. 22-4369

Letter Brief of Past Presidents of the National Association of Criminal
Defense Lawyers in Support of Kenneth Ravenell's Petition for Release
Pending Appeal

Dear Chief Justice Roberts:

Introduction and Background of Undersigned

Undersigned are 22 Past Presidents of the National Association of Criminal Defense Lawyers who in their individual capacities write to strongly support the fair and equal application of the law and attorney Kenneth Ravenell's Application to Your Honor for bail pending his appeal to the Fourth Circuit, following that court's Order denying *en banc* review of a panel decision denying him bail. *See* Order Denying *En Banc* Review at 1, *U.S. v. Ravenell*, No. 22-4369 (4th Cir. Sept. 7, 2022) (Dkt. No. 28) ("Order"). As more fully discussed below, five Circuit Judges, including Chief Judge Gregory, dissented from the Order, and Judge Wynn authored a dissenting opinion joined by three of his colleagues supporting *en banc* review.

We are mindful and take note that we write today on September 17, 2022, Constitution Day.

This group of past presidents of NACDL are exceedingly well versed, well known individually as prestigious, highly accomplished and highly regarded practitioners of criminal law.

In addition to their past leadership position in NACDL, many if not all, of the undersigned serve or have served in leadership positions in other local, state, national, international bar associations and/or legally related institutions.

Collectively this group of lawyers has specialized knowledge of the practice of criminal law, including issues related to bail pending appeal, and have maintained a steadfast commitment to assuring the fair and equal application of the law for all. The group's collective experience spans countless cases and represents some 1000 years of experience. This group has defended the independence of the Courts and believes in promoting the foundational and core concept of trust in our judicial system. We believe there is strong public interest in the appearance of and the actual fair and equal application of the law as determined by the Courts, which insures the necessary and critical faith, confidence and respect for our judicial system to properly function. This is such a case.

This is the first time a collection of past presidents of NACDL has agreed to co-sign such a letter of support.

Argument

Mr. Ravenell is a highly respected African American criminal defense attorney based in Baltimore, Maryland. The Fourth Circuit's dissent unmistakably recognized this compelling fact when it described applicant as "Kenneth Ravenell – a prominent African American attorney in Baltimore – ..."

Mr. Ravenell has been a member of NACDL. NACDL is a nonprofit voluntary professional bar association founded in 1958. NACDL works on behalf of criminal defense attorneys to ensure justice and due process for those accused of criminal conduct. NACDL has a nationwide membership of nearly 10,000 members. NACDL's members include private criminal defense lawyers, public defenders, military defense counsel, law professors, and judges. NACDL is the only nationwide professional bar association for public

defenders and private criminal defense lawyers. NACDL is dedicated to advancing the proper, efficient, and just administration of justice.

We support Mr. Ravenell's Application for bail because we believe, as Fourth Circuit Judge James A. Wynn, Jr., wrote in his dissent from the denial of en banc review, joined by Judges Motz, King and Thacker, it is undisputed that Mr. Ravenell is unlikely to flee or pose a danger to the community, and the appeal presents "a substantial question of law or fact likely to result in . . . an order for a new trial." 18 U.S.C. § 3143(b)(1)(B). Order at 3 (dissenting opinion).

In Mr. Ravenell's case, the court failed to instruct the jury on the statute of limitations even though such an instruction was requested by the defense and supported by the evidence. As a result, the jury did not have the opportunity to consider whether the statute of limitations barred prosecution under Count Two- the sole count of conviction.

As Judge Wynn explained, "[t]he issue of whether a substantial question is present is far more evident in Ravenell's case than it was in [former Virginia] Governor [Robert] McDonnell's case," in which the Fourth Circuit granted bail pending appeal. *Id.* As Judge Wynn appropriately wrote: "Try as one might, one can point to no discernible difference that justifies granting release pending appeal to Governor McDonnell and denying it to Ravenell." *Id.* at 4. He added, "[t]hat's not fair," nor is it consistent with the standard for granting bail pending appeal. *Id.* at 4. Undersigneds strongly agree.

Accordingly, the undersigned 22 past presidents of NACDL ask your Honor to grant Mr. Ravenell's application for bail pending his Fourth Circuit appeal. That *is* fair.

Respectfully submitted,
(Alphabetically)
John Ackerman, Houston, Texas
Chris Adams, Charleston, South Carolina
Barbara Bergman, Tucson, Arizona
Drew Findling, Atlanta, Georgia
Nina Ginsberg, Alexandria, Virginia
Gerald Gold, Cleveland Ohio

Gerald Goldstein, San Antonio, Texas
Carmen Hernandez, Highland Park, Maryland
Nancy Hollander, Albuquerque, New Mexico
Rick Jones, N.Y, New York
Jim Lavine, Houston Texas
Gerald Lefcourt, N.Y, New York
Bruce Lyons, Ft. Lauderdale, Florida
Edward Mallett, Houston, Texas
Gerry Morris, Austin, Texas,
Cynthia Hujar Orr, San Antonio, Texas
Larry Pozner, Denver, Colorado
Martin Sabelli, San Francisco, California
Barry Scheck, N.Y, New York
Theodore Simon, Philadelphia, Pa.
Neal Sonnett, Miami, Florida
Jeff Weiner, Miami, Florida