

Supreme Court of the United States  
Office of the Clerk  
Washington, DC 20543

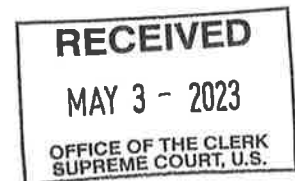
4/26/23

RE: A request for a forty-five day extension to file

Dear Clerk,

My name is Michael David Beiter, Jr., and I am currently incarcerated at FCI Bennettville, in South Carolina. I have an urgent request for a forty-five (45) day extension to file a Writ of Certiorari with your Court, in regards to Appeal no. 22-13008 at the 11th Circuit Court of Appeals. A short history of the facts of the record at the Appeals Court is warranted to explain the timeline of events:

1. On 1/30/23 the Court published its opinion;
2. On 2/6/23, I requested an extension of time to file a Petition for Rehearing; Rehearing En Banc;
3. On 2/9/23 the court granted my motion for extension of time;
4. On 3/10/23, I filed a Motion to Stay the Proceedings, due to an active Judicial Complaint lodged and accepted by Chief Judge William H. Pryor (see Exhibits A and B herein);
5. On 4/7/23 the Court denied my Motion to Stay the Proceedings, which happened while FCI Bennettville was on a Institutional Lock down, and when we came off Lock Down on 4/13/23, I immediately sent my Petition for Rehearing; Rehearing En Banc to the Court (see Exhibit C herein);
6. On 4/17/23 the Appellate Court stated my Petition was "untimely" and issued a Mandate in the Appeal.



Though I am a pro-se litigant and in many ways unlearned in law, I have been very diligent to respectfully meet all court deadlines at the Appellate. My mistake seems to be that I misconstrued the Court rules, and when I put in my Motion to Stay the Proceedings (Exhibit A) on 3/10/23, I believed that would set all new deadlines for me to be able to file my Petition for Rehearing; Rehearing En Banc, On 4/26/23 the Court notified me (ECF No. 22) that I was incorrect and therefore my Petition (ECF No. 20) was "untimely".

Because of such, the opinion filed on 1/30/23, to my dismay started the ninety (90) day clock to file my Writ of Certiorari to your Court. That is three (3) days from today, an impossibility for me as an incarcerated pro-se litigant. I am devastated as this appeal is due to the fact that the appeals court has ruled based upon the belief that I received the Discovery at the District Court, when the entire Appeal is to prove I never received any Discovery at the District Court level (please see ECF No. 20 filed at the appeal on 4/17/23), I have been denied ANY access to the Discovery in the case at hand and the Supreme Court is my only remedy left. Please allow a forty-five day extension (until June 14, 2023) so I may present my Writ.

Sincerely,  


Michael David Beitel, Jr. #91383-004  
FLF Bennettsville  
P.O. Box 52020  
Bennettsville, SC 29512

sent via usps certified mail no. 7020 0640 0001 2736 6053

[DO NOT PUBLISH]

In the  
United States Court of Appeals  
For the Eleventh Circuit

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No. 22-13008

Non-Argument Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

*versus*

MICHAEL D. BEITER, JR.,

Defendant- Appellant.

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Appeal from the United States District Court  
for the Southern District of Florida  
D.C. Docket No. 0:09-cr-60202-JIC-1

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Before LAGOA, BRASHER and TJOFLAT, Circuit Judges.

PER CURIAM:

Michael D. Beiter, Jr., a federal prisoner proceeding *pro se*, appeals the District Court's denial as moot of his *pro se* motion to compel the Supervisory Assistant Federal Public Defender ("AFPD") to surrender his entire case file from his criminal case. On appeal, he repeats the merits of his underlying motion, including that he needs his case file from the AFPD to prepare a post-conviction motion, and asks this Court to vacate the District Court's order and demand that it set a deadline within which the AFPD must produce his file.

The government responds by moving for summary affirmance of the District Court's order denying Beiter's motion and argues that Beiter's appeal is frivolous because the AFPD had already agreed to produce the case file, so the District Court did not need to order him to do so, and Beiter failed to establish why it was so urgent that the AFPD produced his file immediately when the time period for him to file a 28 U.S.C. § 2255 post-conviction motion for relief expired over ten years ago.

Summary disposition is appropriate, in part, where "the position of one of the parties is clearly right as a matter of law so that there can be no substantial question as to the outcome of the case, or where, as is more frequently the case, the appeal is frivolous."

22-13008

Opinion of the Court

3

*Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

Under Article III of the Constitution, a federal court’s jurisdiction is limited to active “cases” and “controversies.” *United States v. Al-Arian*, 514 F.3d 1184, 1189 (11th Cir. 2008). A case on appeal becomes moot and ceases to be an active case or controversy when an event that occurred at a stage of litigation deprives the court of the ability to give the appellant meaningful relief. *Id.*; see also *Christian Coal of Fla., Inc. v. United States*, 662 F.3d 1182, 1189 (11th Cir. 2011).

Here, the government is entitled to summary affirmance of the District Court’s order denying Beiter’s motion to compel the AFPD to turn over his entire case file because Beiter’s appeal is frivolous. *Groendyke Transp.*, 406 F.2d at 1162. The record demonstrates that the AFPD responded to Beiter’s motion to compel and confirmed that he was reviewing the voluminous case file to ensure that it did not violate the District Court’s protective order. Beiter has not demonstrated why he suddenly, 11 years after his conviction, needs his entire case file from the AFPD within 10 business days. After the AFPD responded and agreed to provide Beiter with his case file after he finished reviewing it, there was no live controversy for the District Court to resolve and no relief for it to grant Beiter, so Beiter’s motion to compel was moot. See *Al-Arian*, 514 F.3d at 1189. Thus, Beiter’s appeal is frivolous, and the government is entitled to summary affirmance.

Therefore, we **GRANT** the government's motion for summary affirmance of the District Court's denial of Beiter's *pro se* motion to compel, and **DENY** as moot its motion to stay the briefing schedule.

**UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING  
56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

David J. Smith  
Clerk of Court

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January 30, 2023

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 22-13008-HH  
Case Style: USA v. Michael Beiter, Jr.  
District Court Docket No: 0:09-cr-60202-JIC-1

Electronic Filing

All counsel must file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause. Although not required, non-incarcerated pro se parties are permitted to use the ECF system by registering for an account at [www.pacer.gov](http://www.pacer.gov). Information and training materials related to electronic filing are available on the Court's website.

Enclosed is a copy of the court's decision filed today in this appeal. Judgment has this day been entered pursuant to FRAP 36. The court's mandate will issue at a later date in accordance with FRAP 41(b).

The time for filing a petition for rehearing is governed by 11th Cir. R. 40-3, and the time for filing a petition for rehearing en banc is governed by 11th Cir. R. 35-2. Except as otherwise provided by FRAP 25(a) for inmate filings, a petition for rehearing or for rehearing en banc is timely only if received in the clerk's office within the time specified in the rules. Costs are governed by FRAP 39 and 11th Cir.R. 39-1. The timing, format, and content of a motion for attorney's fees and an objection thereto is governed by 11th Cir. R. 39-2 and 39-3.

Please note that a petition for rehearing en banc must include in the Certificate of Interested Persons a complete list of all persons and entities listed on all certificates previously filed by any party in the appeal. See 11th Cir. R. 26.1-1. In addition, a copy of the opinion sought to be reheard must be included in any petition for rehearing or petition for rehearing en banc. See 11th Cir. R. 35-5(k) and 40-1 .

Counsel appointed under the Criminal Justice Act (CJA) must submit a voucher claiming compensation for time spent on the appeal no later than 60 days after either issuance of mandate or filing with the U.S. Supreme Court of a petition for writ of certiorari (whichever is later) via the eVoucher system. Please contact the CJA Team at (404) 335-6167 or [cja\\_evoucher@ca11.uscourts.gov](mailto:cja_evoucher@ca11.uscourts.gov) for questions regarding CJA vouchers or the eVoucher system.

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OPIN-1 Ntc of Issuance of Opinion



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