

OCT 23 2023

OFFICE OF THE CLERK

No. 23-5280

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IN THE  
SUPREME COURT OF THE UNITED STATES

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ROBERT A. GRIFFIN—Petitioner,

VS..

STEWART ECKERT, SUPERINTENDENT  
WENDE CORRECTIONAL FACILITY—Respondent.

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ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES  
OF APPEALS FOR THE SECOND CIRCUIT

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PETITION FOR REHEARING OF ORDER DENYING CERTIORARI

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ROBERT A. GRIFFIN  
PETITIONER PRO SE  
SING SING CORRECTIONAL FACILITY  
354 HUNTER STREET  
OSSINING, NEW YORK 10562

ORIGINAL

This case involves, in addition to the authorities already cited in the petition for certiorari, the following provisions of the United States Constitution:

**28 U.S.C. A. § 455** which says:

Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonable questioned.

**28 U.S.C. § 2244(d)(1)** which says:

(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

(B) the date on which the impediment to filing an application created by State action in violation of the constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

(C) the date on which the constitutional right asserted was initially recognized by the[United States], if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review;  
or

(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

And the Fifth Amendment which says:

No person shall...be deprived of life, liberty or property, without due process of

law....

Petitioner, Robert A. Griffin, respectfully moves this Court to grant a rehearing of its order dated October 2<sup>nd</sup>, 2023, denying a writ of certiorari, so that the Court can *sua sponte* vacate Order and consider granting certiorari limited to “other substantial grounds not previously presented, related issues in other pending cases, or new state court decision or legislation,” which may have a significant bearing upon the proper disposition of this case. **Rule 44.2 of the Supreme Court**

The question presented herein was not previously presented to a District Judge as extraordinary/extreme hardship circumstances or state created impediments involving Judicial, Government, prosecutorial, and correctional misconduct, state provided conflict counsel, errors in initial habeas proceeding, state trial court failed to hold an evidentiary hearing on IAC claims, petitioner asserted rights mistakenly in wrong forum, and infliction of emotional distress to equitably toll a substantial portion of limitations period. In light of such grave consequences, if the limitation period is not tolled, petitioner would be denied all federal review of his due process claims. The question presents a substantial ground for certiorari discussing the importance of the removal of the time bar question presented, in absent of the Second Circuit’s decision in this case and its impact upon the administration of justice in the federal courts. At the same time, the petition for certiorari acknowledged that, although no comparable decision has been rendered for equitable tolling excusing a time bar based on abnormal behavior of Respondents in other circuits, but should be,

be, excepted as equitable tolling by this Court. This reason is debatable. Mr. Griffin should be allowed to proceed further based on Defendants interference with counsel and assertion of petitioner's rights, which should encourage this Court to resolve Petitioner's procedural issues.

Holland v. Florida, 560 U.S. 631 (2010)

Liljeberg v. Health Services Acquisition Corp., 486 U.S. 847 (1988)

Massaro v. United States, 538 U.S. 500 (2003)

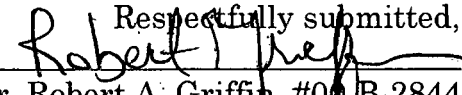
Rosales-Mireles v. U.S., 138 S. Ct. 1897 (2018)

On October 6<sup>th</sup>, however, which was shortly after the denial of certiorari in this case, the petitioner obtained materials relevant to support a determination by this Court. Copies of the appendixes are annexed hereto. It will be demonstrated that petitioner's failure to timely file was cause by extraordinary circumstances beyond his control such as to justify application of equitable tolling base on **Josephine DiVincenzo** relationship by consanguinity or otherwise to the present case as an outside influence. There is no other Circuit's opinion that acknowledges the comparability of this case. The Second Circuit analyzes had expressly rejects any reasoning for equitable tolling. The Second Circuit's opinion also refers nothing of the importance of the time bar question presented and expressed no opinion of the decisions being resolved by this Court. Respondents are acting without impunity. Since there exists no clear and express conflict of decisions among any circuits on an important

question of federal law affecting many people in different parts of the country, rare and compelling reasons are evident why the question presented should be reviewed and definitively determined by this Court.

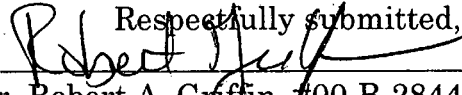
### CONCLUSION

For the reasons set forth in this petition for rehearing, as well as in the petition for certiorari previously filed, rehearing and certiorari (COA) should now be granted on the merits.

Respectfully submitted,  
  
Mr. Robert A. Griffin, #00-B-2844  
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354 Hunter Street  
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### CERTIFICATE OF COUNSEL

Pursuant to Rule 44.2, I hereby certify that the foregoing Petition for Rehearing is presented in good faith and not for delay, and is limited to the grounds specified in Rule 44.2

Respectfully submitted,  
  
Mr. Robert A. Griffin, #00-B-2844  
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