

23-6047

No. \_\_\_\_\_

FILED  
AUG 10 2023  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

RALPH REED — PETITIONER  
(Your Name)

VS.

WARDEN, MAY — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

RALPH REED  
(Your Name)

J.T.V. CORRECTIONAL CENTER  
(Address)

SMYRNA, DE 19977  
(City, State, Zip Code)

\_\_\_\_\_  
(Phone Number)

QUESTION(S) PRESENTED

DID THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT ABUSE ITS DISCRETION BY DENYING APPELLANT'S RIGHTS TO DUE PROCESS WHEN THE STATE OF DELAWARE GAVE APPELLANT 3 YEAR TO FILE HIS (INTEGRAL) STATE COLLATERAL POST-CONVICTION PROCEEDINGS. FROM THE TIME OF THE DELAWARE SUPREME COURT DECISION OF HIS DIRECT APPEAL, THE FEDERAL COURT SHOULD HAVE GRANT APPELLANT HABEAS CORPUS RELIEF UNDER THESE EXTRAORDINARY CIRCUMSTANCES PREVENTED APPELLANT TIMELY FILING. 28 U.S.C § 2254.

DID THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT AND THE LOWER COURTS ABUSE ITS DISCRETION BY DENYING APPELLANT'S RIGHTS CONSTITUTIONAL AND DUE PROCESS RIGHTS. MR. REED DID NOT HAVE ANY COUNSEL ON HIS FIRST STATE INTEGRAL COLLATERAL STATE POST-CONVICTION PROCEEDING MISTAKE UNDER INEFFECTIVE ASSISTANCE OF COUNSEL MARTINER V. RYAN 132 S. CT. 1309 (2012). MR. REED HAVE PROVED THAT HE HAS BEEN PURSUING HIS RIGHTS DILIGENTLY FOR MANY YEAR FROM THE START OF HIS (INTEGRAL STATE COLLATERAL POST-CONVICTION PROCEEDING). MR. REED SHOWED THAT SOME EXTRAORDINARY CIRCUMSTANCES STOOD IN HIS WAY AND PREVENTED TIMELY FILING.

DID THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT ABUSE ITS DISCRETION BY DENYING APPELLANT'S CERTIFICATE OF APPEALABILITY UNDER FED.R.CIV.P. 60(B)(6) AND FED.R.CIV.60(B)(2) AND FED.R.CIV.P. 59(E)(3).

QUESTION(S) PRESENTED

DID THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT ABUSE ITS DISCRETION BY DENYING APPELLANT'S CERTIFICATE OF APPEALIBILITY UNDER FED R CIV. P. 60(B)(2) AND RULE 60(B)(6).

DID THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT AND THE LOWER COURTS ABUSE ITS DISCRETION BY DENYING APPELLANT'S CONSTITUTIONAL RIGHTS TO A FAIR TRIAL BY AN ALL WHITE JURY VIOLATED BATSON V. KENTUCKY 476 U.S. 43, 90, 106 S. CT 1921, 90 L ED 2d 69 (1986).

DID THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT AND THE LOWER COURTS ABUSE ITS DISCRETION BY DENYING APPELLANT'S CONSTITUTIONAL RIGHT TO A FAIR VOIR DIRE QUESTIONS TO THE JURY PANEL.  
FOSTER V. CHATMAN AND BATSON V. KENTUCKY

DID THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT AND THE LOWER COURTS ABUSE ITS DISCRETION BY DENYING APPELLANT'S CONSTITUTIONAL RIGHTS OF SIMILARLY SITUATED BLACK AND WHITE JURORS DISCRIMINATION BY THE STATE PROSECUTION VIOLATED EQUAL PROTECTION CLAUSE OF THE 14<sup>TH</sup> AMENDMENT AND 6<sup>TH</sup> AMENDMENT.

QUESTION(S) PRESENTED

- 1) BEFORE THIS COURT LIES A SIGNIFICANT AND FUNDAMENTAL QUESTION: WAS IT FAIR FOR PETITIONER HABEAS CORPUS FILING TIME TO RUN ONCE HIS CONVICTION BECAME FINAL ON DIRECT REVIEW WHEN THE STATE OF DELAWARE GAVE HIM 3 YEARS TO FILE FOR "POST-CONVICTION RELIEF PETITION? SUCH QUESTION IS OF Critical Importance" BECAUSE THIS CRITICAL CONFLICT PREVENT THE COURT FROM EVER REACHING THE MERITS OF THE CONSTITUTIONAL VIOLATION ON HIS HABEAS CORPUS PETITION.
- 2) THE UNCONSTITUTIONAL CONFLICT IN THE STATE OF DELAWARE AND THE FEDERAL STATUTE OF LIMITATIONS WAS A CLEAR DIRECT-UNFAIR DILIGENT VIOLATION TOWARD'S THE PETITIONER REED FILING TIMES. HERE PETITIONER BY STATE OF DELAWARE LAW HAD 3 YEARS TO SUBMIT HIS STATE POST-CONVICTION RELIEF PETITION TO THE STATE OF DELAWARE SUPERIOR COURT. THE CONFLICT WAS THE STATE OF DELAWARE AND THE FEDERAL LIMITATION STATUTE OF ONE YEAR.
- 3) THE ISSUE IS DEBATABLE ARGUMENT JURIST OF REASON WHICH WARRANTS FURTHER REVIEW BY THIS COURT. THE DISTRICT COURT FAILED TO GIVE PETITIONER EQUAL TOLLING TO FILE INITIAL HABEAS CORPUS.
- 4) RALPH REED INVOKED MARTINEZ V. RYAN 132 S.Ct 1309 (2012) PROCEDURE DEFALTE EXCEPTION FOR MY INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL CLAIMS. MR. REED DIDN'T HAVE COUNSEL FOR HIS FIRST MOTION FOR POST-CONVICTION RELIEF (INITIAL COLLATERAL PROCEEDING). THIS COURT SAID THAT ALL DEFENDANTS HAVE A RIGHT TO A LAWYER IN THEIR FIRST POST-CONVICTION MOTION INITIAL COLLATERAL PROCEEDING. THE EXCEPTION CONTAINED IN MARTINEZ V. RYAN 132 S.Ct 1309 MR REED PREVIOUSLY IF DIGATED CLAIMS SHOULD BE HEAD AND GRANTED RELIEF BY THIS COURT AND THE LOWER COURTS.
- 5) WAS IT FAIR FOR THE STATE OF DELAWARE USE RACIAL BASES IN THE JURY SELECTION AT MR REED TRIAL.
- 6) WAS IT FAIR FOR THE JURY FAILED TO DISCLOSE HIS CONNECTION TO THE VICTIMS BROTHER DURING VOIR DIRE AND THAT CONNECTION WAS NOT DISCOVERED UNTIL AFTER THE JUROR WAS SEATED AND SWEORN IN FOR MR. REED TRIAL.

QUESTION(S) PRESENTED

7) WAS IT FAIR FOR THE PROSECUTOR USE A BASELESS UNCONSTITUTIONAL DESPARATE VOICE DIRE QUESTIONS TO THE JURY PANEL.

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8) WAS IT FAIR FOR THE STATE PROSECUTOR TO USE RACIAL BASES IN DESPATE TREATMENT OF SIMILARLY SITUATED BLACK AND WHITE JURORS FOR DISCRIMINATION VIOLATE THE EQUAL PROTECTION CLAUSE OF THE 14<sup>TH</sup> AMENDMENT TO THE UNITED STATES CONSTITUTION.

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9) WAS IT FAIR FOR THE TRIAL COURT ABUSED ITS DISCRETION BY NOT CONCLUDING THAT MR. REED TRIAL COUNSEL DEPRIVE HIM OF HIS 6<sup>TH</sup> AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL FOR FAILING TO PROPERLY INVESTIGATE AND SUBPOENA TWO CRUCIAL DEFENSE WITNESSES.

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## 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:

KATHLEEN JENNINGS ATT. GEN. OF DELAWARE  
DELAWARE DEPARTMENT OF JUSTICE  
820 NORTH FRENCH STREET 8<sup>TH</sup> FL  
WILMINGTON, DELAWARE 19801

## RELATED CASES

## TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED .....	3
STATEMENT OF THE CASE .....	4,5,6
REASONS FOR GRANTING THE WRIT.....	7,8,
CONCLUSION.....	9

## INDEX TO APPENDICES

APPENDIX A UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT  
SUSPENSION FOR REHEARING ORDER

APPENDIX B UNITED STATES DISTRICT COURT FOR THE DISTRICT OF  
DELAWARE MEMORANDUM ORDER

APPENDIX C

APPENDIX D

APPENDIX E

APPENDIX F

## TABLE OF AUTHORITIES CITED

### CASES

### PAGE NUMBER

BATSON V. KENTUCKY 476 U.S. AT 90, 106 S.Ct 1921, 90 L.Ed.2d 69 (1986)	
BLYSTONE V. HORN 664 F.3d AT 114 (3DCIR 2011)	
BROWN V. JOHN DEERE PROD 2016 U.S. DIST. LEXIS 11544	
COX V. HORN, 757 F.3d AT 119 (3DCIR 2014)	
FOSTER V. CHAPMAN 578 U.S. 488, 136 S.Ct 1732, 195 L.ED.2d 1, 2016	
GRIFFIN V. BROWARD Cnty. SCH BD 2016 U.S. DIST. LEXIS 5286	
JIRKOVY V. DEPT OF VETERANS AFFAIRS 498 U.S. AT 95 (1990)	
JACKSON V. ASTRUE 506 F.3d AT 1553 (11th CIR 2007)	
MARTINEZ V. RYAN 566 U.S. AT 14 (2012)	
SPRECHER V. XEROX CORP 2018 U.S. DIST. LEXIS 63948	
SANDOVAL V. UNITED STATES 117 F.3d AT 1271 (11th CIR 1999)	
TRESE V. COEN 522 U.S. AT 89 (1997)	
UNITED STATES V. FIORENZA 337 F.3d AT 288 (3DCIR 2003)	

### STATUTES AND RULES

28 U.S.C. § 2254

- FED. R. CIV. P. 59(e)3
- FED. R. CIV. P. 60(b)(6)
- FED. R. CIV. P. 60(b)(2)

### OTHER

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

[ ] reported at Unreported; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

The opinion of the United States district court appears at Appendix \_\_\_\_\_ to the petition and is

[ ] reported at Unreported; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

[ ] reported at \_\_\_\_\_; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

[ ] reported at \_\_\_\_\_; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

## JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was May 8, 2023.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: May 8, 2023, and a copy of the order denying rehearing appears at Appendix Exhibit B.

An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_. A copy of that decision appears at Appendix \_\_\_\_\_.

A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

(2.)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. 28 U.S.C. § 2254
2. FED.R.CIV.P. 59(c)(3)
3. FED.R.CIV.P. 60(b)(6)
4. 6<sup>TH</sup> AMENDMENT
5. 14<sup>TH</sup> AMENDMENT

(3.)

STATEMENT OF THE CASE

ON SEPTEMBER 2022, PETITIONER FILED IN THE DISTRICT COURT OF DELAWARE AN MEMORANDUM OF LAW SUPPORTING MOTION TO AMEND JUDGMENT UNDER EXTRAORDINARY CIRCUMSTANCES AND PLAIN ERROR PURSUANT TO 28 U.S.C. 2254 AND CIVIL RULE 52(b) PETITIONER RAISED MULTIPLE GROUNDS OF CONSTITUTIONAL MERITS UNDER INEFFECTIVE ASSISTANCE OF COUNSEL, SEEING WATKINS V. RYAN 132 S.C.T. 1304 (2022) MACK V. SUPERINTENDENT S.C.T. 2019 U.S. APP. LEXIS 22458 AND CIVIL RULE 60(b)(6). -- SEE ATTACHMENT OF EXHIBIT(A) (B)(C)

THE DISTRICT COURT OF DELAWARE DID NOT UNDERTAKE AND DECIDED THE GROUNDS IN THE MEMORANDUM WAS NOT RIFE FOR CONSIDERATION, DESPITE THE COURTS AFFIRMATION, AND CONCLUDED THAT PETITIONER WAS STRANDED, BECAUSE HE HAD NOT BEEN GRANTED A CERTIFICATE OF APPEALABILITY FROM THE THIRD CIRCUIT AND THE MEMORANDUM WAS THEN BARRED BY ITS 2001 AND RULINGS. DISMISSING IN ITS ENTIRETY FOR LACK OF JURISDICTION, TO EXHIBIT (A) --. SUBSEQUENTLY THE THIRD CIRCUIT DETERMINED THAT PETITIONER MUST EXPLAIN FOR NOT APPEALING THE DISTRICT COURTS 2014 DECISION. SEE EXHIBIT (A)(A) AND ATTACHMENTS.

SEPTENBER 2022 PETITIONER FILED IN THE DISTRICT COURT OF DELAWARE AN MEMORANDUM OF LAW SUPPORTING MOTION TO AMEND JUDGMENT UNDER EXTRAORDINARY CIRCUMSTANCES AND PLAIN ERROR PURSUANT 28 U.S.C. 2254 AND CIVIL RULE 60(b)(6). PETITIONER RAISED SEVERAL GROUNDS OF CONSTITUTIONAL MERITS UNDER INEFFECTIVE ASSISTANCE OF COUNSEL, SEEING MATTHEW V. RYAN 132 S.C.T. 1304 (2022) TRENTON V. THOMAS 133 S.C.T. 1911. 2013 WL 2300805, WATKINS V. RYAN 233 F.3d at 1148, HOLLAND 130 S.C.T. 2025-26, DOEN V. BUSBY (14 F3d100, 2011 U.S. APP. LEXIS 22458,

STATEMENT OF THE CASE

PHEARS V. ALAMEDA 529 F.3D 1130, 110 (CA-2000) HORNADY V. SEMINOLE 986 F.2D 24, 29, 30 (2D CIR. 1993) WILLIAMS V. TAYLOR 529 U.S. 362, 107, 120 S.C.T. 1495, 146 L.Ed. 389 (2000) WEERY V. MOORE 344 F.3D 874 (2003) SETZNER V. BOONE 344 F.3D (2003) CHEVY RUE 60(B)(6) TSAKONIKES V. TRANSCONTINENTAL CARRIERS 5988, 322 F. SUPP. 772 S.D. N.Y. (1990) SINCHY V. DOWD 529 U.S. 1473, 1483 120 S.C.T. 1595, 146 L.Ed. 2D 54 (2000) Granting Rule 60(B)(6) RELEIF, ROSS V. W.U.S. 600 OH S.C.T. 2437, 41, 1. ED. 2D 341 (1994) at 393-394 GREEN and Douglas due process.

THE DISTRICT COURT OF DELAWARE AND THE FEDERAL APPEALS COURT FAIL TO GRANT MR. REED MOTIONS UNDER EXTRAORDINARY CIRCUMSTANCES AND UNDER DILEGENT CIRCUMSTANCES AND DUE PROCESS WHEN THE STATE OF DELAWARE MISLEAD PETITIONER OF HIS RIGHTS UNDER THE CONSTITUTIONAL STRATE AMENDMENT.

MR. REED ASSERTS EVERYTHING HE DONE OVER THE YEARS WAS REASONABLY DILEGENT UNDER THE CIRCUMSTANCES OF THIS CASE AT BAR. HOLLARD, 130 S.C.R. at 2565-26.

MR. REED FILED MANY MORE MOTIONS TO CHALLENGE HIS CONNECTION FOR FILED MANY RULE 60(B)(6) MOTIONS TO CHALLENGE HIS CONNECTION FOR A NEW TRIAL.

MR. REED HAD NO COUNSEL ON HIS FIRST POST-CONVICTION MOTION FOR INEFFECTIVE ASSISTANCE OF COUNSEL. PURSUANT TO MARTINEZ V. RYAN 132 S.C.T. 1309 (2001).

STATEMENT OF THE CASE

MR. REED HAVE PROVED THAT HE HAS BEEN PURSUING HIS RIGHTS DELIGENTLY FOR MANY YEARS FROM THE START OF HIS (INITIAL COLLATERAL PROCEEDINGS). PETITIONER SHOWED THAT SOME EXTRAORDINARY CIRCUMSTANCES STOOD IN HIS WAY AND PREVENTED THEMELY FILING.

REASONS FOR GRANTING THE PETITION

THE THIRD CIRCUIT COURT AND THE DISTRICT COURT FAILURE TO CORRECT THE STATE OF DELAWARE MISLEADING STATUTE OF LIMITATION IN ANTION COLLATERAL STATE POST-CORRECTION PROCEEDING.

MR. REED DID NOT HAVE ANY COUNSEL ON HIS FIRST STATE INATED COLLATERAL STATE POST-CORRECTION PROCEEDING MOTION UNDER INSTRUCTIVE ASSISTANCE OF COUNSEL MARTINEZ V. RYAN 132 S.Ct 1809 (2012). MR. REED HAVE PROVED THAT HE HAS BEEN PURSUING HIS RIGHTS DILIGENTLY FOR MANY YEARS FROM THE START OF HIS (INSTEAD STATE COLLATERAL POST-CORRECTION PROCEEDING). MR. REED SHOWED THAT SOME EXTRAORDINARY CIRCUMSTANCES STOOD IN HIS WAY BY THE STATE OF DELAWARE STATUTE OF LIMITATIONS THAT PREVENTED MR. REED TIMELY FILING 28 U.S.C. § 2254.

THE THIRD CIRCUITS DECISION UNDER CLEW RUL 60(B)(6), IS INOPPOSITIVE OF ITS JUDGMENT IN SIMILAR CASES UNDER ITS JURISDICTION AND OTHERS. BECAUSE CLEW RUL 60(B)(6) IS NON-JURISDICTIONAL IN APPLICATION.

SEE, JACKSON V. ASTORIA 506 F.3D 1553 (11th Cir 2007), SPERGAR V. XEROX CORP. 2018

U.S. DIST. LEXIS 63948 (THE TIME LIMIT IS, OF COURSE NON-JURISDICTIONAL AND IT IS THEREFORE "SUBJECT TO EXCEPTIONALMENTS PERMITTED ACCORD TO DISREGARD THE TIME LIMITS") GRIFFIN V. BROWARD Cnty. S.D., 2018 U.S. DIST. LEXIS 52866 (Same), BROWN V. JOHN DEERE PROD., 2010 U.S. DIST. LEXIS 111544 (Same) SANDWICK V. UNITED STATES 197 F.3D at 121 (11th Cir 1999) (EQUITABLE TOLLEN IS APPROPRIATE WHEN A NOVANT WITHDRAWALS BECAUSE OF EXTRAORDINARY CIRCUMSTANCES THAT ARE BOTH BEYOND HIS OR HER CONTROL AND UNAVOIDABLE EVEN WITH DILIGENCE).

REASONS FOR GRANTING THE PETITION

THIS COURT, THE UNITED STATES SUPREME COURT WAS HELD "THE LIMITATION PROVISION OF 28 U.S.C. § 2254 IS A STATE OF LIMITATION EITHER THAN A JUDICIAL OR A JUDGMENTAL BAR. SEE, TRUMAN V. DEPT OF VETERANS AFFAIRS, 498 U.S. AT 95 (1990). NOTWITHSTANDING, ABOUT THE LOWER COURTS REVIEW'S REST ON THE PETITIONER'S TIMELINESS OF HIS INFERIOR FILINGS. MOREOVER, FOR WHICH CAUSE PETITIONER BRENGS HIS CONCERN. IN MARINELA V. RYAN, THIS COURT WROTE, "STATE PRISONERS MAY NOT BE PROCEDURALLY BARRED WHEN PETITIONER BRENGS CLAIMS OF INEFFECTIVE ASSISTANCE OF COUNSEL." EMPHASIS OF ORIGINAL 10566 U.S. AT 14 (2012) SEE ALSO COX V. HORN 757 F.3D AT 119 (3D CIR 2014) (SAME).

PETITIONER FURTHER ARGUE'S THAT THE DISTRICT COURTS DETERMINATION OF HIS MEMORANDUM AS "TIME BARRED" UNDER CIVIL RULE 59(E) IS MISPLACED. RULE 59(E) "A DEVICE TO REEXAMINE THE ORIGINAL ISSUES DECIDED BY THE DISTRICT COURT AND IT IS USED TO ALLEGED LEGAL ERRORS. UNITED STATES V. FIORELLI 337 F.3D AT 288 (3D CIR 2003). IT IS CLEAR PETITIONER WAS SERVING RELEIF UNDER CIVIL RULE 59(E)(3) WHERE THERE WAS THE NEED TO CORRECT CLEAR ERRORS OF LAW AND FACT. THEREFORE TO PREVENT A MANIFEST INJUSTICE "THEREFROM MAY'S SEAFOOD CAFE V. QUINTEROS, 176 F.3D AT 607 (3D CIR 1999). THE THIRD CIRCUIT HAS SAID AS PRECEDENT "THE DISTRICT COURT IS REQUIRED TO VIEW A RULE 59(E) MOTION AS LYING OUTSIDE THE REACH OF JUDGMENTAL LIMITATIONS THAT A.E.D.A. IMPOSES UPON MULTIPLE COLLATERAL ATTACKS. BLYSTONE V. HORN 664 F.3D AT 411 (3D CIR 2011). IN OTHER WORDS, RULE 59(E) MOTIONS TO AMEND OR ALTER JUDGMENT ARE MATTERIALLY DIFFERENT FROM RULE 60(B) MOTIONS, SUCH THAT A RULE 59(E) MOTION DOES NOT CONSTITUTE A SECOND OR SUCCESSIVE HABEAS CLAIM UNLESS APPLICABLE EVEN IF IT ASCENES A HABEAS CLAIM". 10664 F.3D AT 413.

PROCEDURAL DEFAULT AS IMPLIED BY THE LOWER COURTS DECISIONS ARE NOT JURISDICTIONAL BARS TO REVIEW PETITIONERS HABEAS CORPUS PETITION ON THE MERITS. TRENT V. CAIN 522 U.S. AT 89 (1997). JUDICIAL ECONOMY IN THIS CASE, FAVORS ADDRESSING THE MERITS. PETITIONERS RIGHTS ARE PROTECTED BY THE UNITED STATES CONSTITUTION, AND WHERE AS HERE, THE THIRD CIRCUIT HAS FAILED TO PROTECT THOSE SAME RIGHTS. THE UNITED STATES SUPREME COURT, MUST PROVIDE RELIEF TO THE PETITIONER. WHERE IT IS CLEAR THAT THE THIRD CIRCUIT'S DECISIONS ARE NOT ONLY INOPPOSITIVE OF ITS CIRCUIT PRECEDENT, BUT INOPPOSITIVE TO THOSE NATIONALLY AND THE UNITED STATES SUPREME COURT.

#### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Ralph Reed

Date: \_\_\_\_\_