No. 23-6565

IN THE

SUPREME COURT OF THE UNITED STATES

In Re DERRICK THOMPSON-PETITIONER

V.

PATRICK GRIFFIN-RESPONDENT(S)

ON PETITION FOR A RE-HEARING

TO THE UNITED STATES SUPREME COURT

PETITION FOR A WRIT OF MANDAMUS

MR. DERRICK THOMPSON 10A2753
Eastern Correctional Facility
P.O. Box-338
Napanoch, New York 12458-0338

QUESTION(S) PRESENTED

SHOULD THIS COURT RE-HEAR THE PETITION FOR A WRIT OF MANDAMUS PURSUANT TO THE COURT'S RULE 44, TO DETERMINE WHETHER UNDER 28 U.S.C.A. §1361 TO COMPEL AN OFFICER OR EMPLOYEE OF THE UNITED STATES OR ANY AGENCY THERE OF TO PERFORM A DUTY OWED TO THE PLAINTIFF ACCORDING TO BANKER'S LIFE & CAS CO. V. HOLLAND, 346 U.S. 379, 382-385, 74 S.CT. 145 147-149, EX PARTE FAHEY, 332 U.S. 258, 259, 67 S.CT. 1558, 1559

LIST OF PARTIES

[x] All parties in the caption of the case on the cover page.

[X] 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:

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IN THE

SUPREME COURT OF THE UNITED SATES

PETITION FOR REHEARING, ON PETITION

FOR WRIT OF MANDAMUS

Petitioner Respectfully Prays that Petition For
Re-Hearing Issue to the Judgment Below

OPINION BELOW

[X] for cases from Federal Courts:

[X] the opinion of the United States Court of Appeals appears at

Appendix A the Petition and is:

A104-A105

[ ] reported at 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[ ] is unpublished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 _____; or

[ ] is published

[ ] for cases from State Courts:

The opinion of the highest State Court to review the merits appears at Appendix A–A

to the petition and is:

A-A, A092

[ ] reported at _____, or has been designated for

Publication but is not yet reported; or

[ ] is unpublished.

JURISDICTION

[X] For Cases from Federal Court

The date on which the United States Supreme Court denied my Writ of Mandamus was April 1, 2024.

[X] A timely letter request for re-hearing was return back to Petitioner on April 23, 2024 informing Petitioner to apply to Rule 44. Of this Court, and to re-submit within 15 days of the letter rejection.

[X] A timely Petition for rehearing is presented in good faith and not for delay.

The date on which the United States Court of Appeals decided my case was June 26, 2023.

[X] A timely Petition for rehearing was denied by the United States Court of Appeals on the following date June 26, 2023.

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

[X] for cases from State Courts:

The date on which the highest State Court decided my case was July 29, 2022. A copy of that decision appears at Appendix A.

The jurisdiction of this court is invoked under 28 U.S.C.A. §1361. Berger v. U.S., 295 U.S. 78, at 88

STATEMENT OF THE CASE

On September 5, 2006, The Director, Office of Forensic service John W. Wicks faxed a letter to Dr. Prinz, M. Director of Forensic Biology, Forensic Molecular, & Biochemistry laboratory Office of Chief Medical Examiner, (A001). Inside the letter, Director John Hicks wrote, a of the state DNA Index System (SDIS) resulted in a match between the city o0f New York Offic3 of the Chief Medical Examiner specimen number BTB0603-0225-771-DE 01-B and convicted offender specimen number 9934423A. The purpose of this report is to 9inform you of a possible investigative lead related to this specimen. The convict4ed offender information is as follows; Derrick Thompson, Aliases: Derrick Ashley; Derrick Jones; Eugene Ashley, March Johnson NYSID #4455061H; current location Parole. A copy of this letter should be provided to the submitting agency for appropriate review in this invective matter. If legal action is anticipated, based upon this information, it is strongly recommended that a new DNA specimen be collected from the named individual. This new DNA Specimen should then be submitted to your laboratory for appropriate confirmatory analysis, (A001).

On April 3, 2007, Assistant District Attorney Maryam N'Ha Margo Lipkansky wrote to Office of the Chief Medical Examiner Legal Department Mimi Mairs, requesting a certified copy of the file for OCME case number BTB0603-0225. This material is required for the preparation of the above-listed Bio Tracks case for prosecution and trial. (A002)

On November 14, 2007; Tap-A- Transcript P. 2.

The Clerk Number 22, Derrick Thompson.

The Court: Judge McGann denied the motion to dismiss. I have it on for trial.

Mr. Siff: Michael Siff for the defendant. Are the People ready?

Ms. Howard: We are not ready for trial because we need to re-swab the defendant.

(Defendant entered the Court room)

Ms. Howard: Will the defendant consent, or do we have to do an order to show cause?

Mr. Siff: I don't know why they need to re-swab him, judge. The DNA that they- -

Ms: Howard: I will go on the record again counsel. We were informed by their ME's Office that whoever the ME is will not testify unless the defendants are re-swabbed.

Ms: Howard: I'm not going to get into an argument with the defendant I will say two things: counsel can have this information, but for whatever reason, and I don't Know the reason, the ME doesn't like the databank - - I can't think of the word, wherever they get the DNA samples from, if that's a data bank, they don't like it, I don't know the reason, they have not told us what the reason is, so in that respect it inures to the benefit of the defendant. I can do it anyway you want. If he doesn't consent, I can go by order to show cause, and I can-even get a force order.

There is no right to refuse to give a DNA sample.

(Defendant and counsel confer) (A004-A006)

Mr. Siff: He is not willing to consent, Judge.

Ms. Howard: We will do an order to show cause, may I hear from counsel when you want to come back. There is nobody here today to swab the defendant.

The Defendant: I will sign a refuse right not. I am not coming to court for that. You arrest me, now you want to re-swab me?

Ms. Howard; If the defendant does not appear in court when we put this on for the order to show cause, if the defendant does not come, I will personally let the ADA know to submit a force order to the court, and he will get swabbed where he is being housed on Rikers Island. It's kinder and easier on him if he consents, but anyway it goes, he has no right to refuse.

The Court: What day?

Mr. Siff: I would ask as soon as possible. Monday?

Ms. Howard: I can do an order to show cause. Today is Wednesday. We can do it by Friday (A005).

Mr. Siff: I would ask for Monday. My client is a ward of the state so I don't want him being brought back and forth. We will do it Monday. I will speak with him.

The Court: November 19, 2007

(Matter adjourned to November 19, 2007.) (A006)

On November 19, 2007, the People put a force order to compel Mr. Thompson to take new DNA. (A007-A010).

November 19, 2007
Calendar Proceedings

The Clerk: Derrick Thompson. Add on page Calendar number 38, 347 of 2007.

Ms. Howard: Denise Howard for the People.

Mr. Siff: Appearing for Mr. Thompson, Michael Siff.

Your Honor, I spoke to my client today and he doesn't want to consent.

The Court: Does he realize I have given a force order? (A012)

Mr. Siff: I have gone over with him the procedure time and time again explaining the benefits and negatives of everything involved, but he doesn't want to consent.

Ms. Howard: Judge, I have the force order prepared by ADA Lipkansky. It was prospective obviously because we were hoping that the defendant would consent. Of course the detectives are here. Counsel went down with the detectives to the defendant. Ms. Lipkansky is not in fact in the office. She gave me the authority to sign the affirmation for her so you could execute the force order, and I believe through the sergeant that corrections is making whatever is necessary so that the detectives- -

Court officer: I don't know what they are doing at this point.

Ms. Howard: I want to get the force order signed. I am going to sign Ms. Lipkansky's name. (A012)

PROCEEDINGS 11/19/2007
CALENDAR

The Court: you want to say anything about this Mr. Siff? I don't know if I have much of a choice other than to sign this force order.

Mr. Siff: I don't see any way out of it doesn't seem a valid basis to object. I told him he's subject to having his DNA taken by State Corrections. He is a state sentenced prisoner.

The Court: I am signing a force order. I hope he does comply. I don't want the officers either to be hurt or your client to be hurt in this process.

Mr. Siff: I went over this in detail what is going to be involved.

The Court: What date do you want me to put this on for?

Mr. Siff: Well, it's in a trial ready, I believe, posture, so whatever the People are asking for, I assume DNA is going to have to be analyzed.

Ms. Howard: Judge, could we have January 8th, please for trial?

The Court January 8th, for trial.

The Clerk: January 8th (A013)

On November 19, 2007, Defendant filed a Motion in the Court, requesting that the indictment be dismissed upon the ground CPL §§ 30.30; 30.20, and CPL §210.20 Subd (1) (h), claiming the people cannot come 15 months later and say now that we need Defendant's Thompson, DNA, in order to start trial. See (A003 thru A010). However, Defendant refused the taking of the DNA (A005).

On November 19, 2007, the respondent's filed an untimely force order pursuant to CPL §240.40 (2) (v), (A006-A013). In which the court granted the forcefully taking of DNA (A014-A015). Thereafter Defendant was abducted from one location on Rikers Island where he housed and taken to another location on Rikers Island, and thereupon, stomped out by E.S.U. officers where his DNA

blood was retrieved on a bloody swab stick forcibly stuck in his mouth, (The prosecution's evidence).

Nonetheless, Mr Siff said on record in open court that he is not willing to consent judge. (A005) I have gone over with him the procedure time and time again explaining the benefits and negatives of everything involved, but he doesn't want to consent (A012).

On November 19, 2007, pre-trial counsel Mr. Siff, stated in open court, I don't see any way out of it. It doesn't seem a valid bases to object. I told him he's subjected to having his DNA taken by state corrections. He is a state sentenced prisoner. (A013).

On or about, May 8th, 9th, 2010, trial attorney Mr. Martin states:

Mr. Martin: Always. When I met Mr. Thompson, Mr. Siff had represented him and I believe an order was presented to Judge Griffin with respect to the DNA request for swabbing by the People. I reviewed the paperwork and I told Judge Griffin, I told my client as well I couldn't in good faith oppose the motion because like your honor stated, there is case law that supports the taking of the swab so therefore, I did not oppose the motion.

I informed my client that a judge had signed a force order in the event he didn't want to give the swab. (A016-A017).

To bring to this court's attention that on March 1, 2007, the Prosecutor Maryam N'ha Margo Lipkansky filed Notice of Readiness for trial pursuant to CPL §30.30. (A018-A019). This notice to put Defendant on notice that the People are ready for trial pursuant to CPL §30.30.

On December 4, 2007, Defendant Derrick Thompson, filed a Speedy trial Motion, requesting that the indictment be dismissed upon the ground CPL §§ 30.30 / 30.20. and CPL § 210.20 Subd (1) (h) (A020-A026). Inside the motion, Defendant moved for dismissal at appendix (A023-Ao26). This motion was filed, because the Prosecutor filed their readiness on March 1, 2007, which was dilutional, because they were not ready due to DNA (A001 thru A013).

The Lower Court denied Defendant's motion pursuant to CPL §30.30.

The United Sates Constitution affords all Defendant's the right to a Speedy trial. U.S. Const. VI. Amendment. In New York CPL §§ 30.20, 30.30, and Civil rights Law § 12 afford this right as well. Defendant's here in New York, also has the U.S. Const. IV, Amendment right to not be objected to search and seizure without due process U.S. Const. XIV, Amendment and CPL § 240.90 (1), which protect constitutionally rights that are implicated. Here in Appellant-Defendant case, the respondent declared their readiness on March 1, 2007, which was delusional (A018-A019). 15 months later after announcing their delusional certificate of readiness. Generally, violations of CPL § 240.90 (1) does not require suppression or reversal, unless, constitutionally protected rights are implicated People v. Finkle, 192 Ad.2d 783, 596 NYS.2d 549 (3d. Dept. 19993). And in order to obtain an order pursuant to CPL § 240.40 (2) (b), for blood samples pubic hair samples and saliva samples, the people must show a special need or justification People v. Handley, 105 Misc.2d 215, 413 NYS.2d 282 (Sup. Ct. Monroe Co. 1980).

Mr. Thompson had every right to refuse that taking of DNA in the New York State DNA Data bank, and the respondent did not request for the taking of DNA until 15 months later.

CPL § 240.40 (2) (v), permit the taking of samples of blood, hair or other materials from his body in a manner not involving an unreasonable intrusion thereof, or risk of serious physical injury thereto. Here, recognizing a post Schmerber v. California, 384 U.S. 757 (1966). "Judicial consensus... those visual body inspections are constitutionally distinct from searches that require the Police to intrude beyond the surface of person's body and that the two types of searches are therefore subject to different legal standards", Schmerber, 384 U.S. at 767 (noting that, "if compulsory administration of a blood test does not implicate, the Fifth Amendment, it plainly involves the broadly conceived reach of a search and seizure under the Fourth Amendment".

While a buccal swab is unquestionably a safe procedure, it nevertheless constitutes an intrusion in to the body and is therefore subject to Fourth Amendment protections. (See id; See also Schmerber, Dionisio, Matter of Abe A 56 NY.2d 288, 295, 297 (1982) (applying a "Fourth

Amendment inquiry... focusing on the bodily intrusion itself." The lapse here does not then presents not mere technicality, but untimely, which the indictment should have been dismissed.

To be clear and well established through legislative intent, in New York State, the plain and ordinary language of CPL § 240.90 (1) requires all discovery motions by the prosecutor be made "within (45) days after arraignment, (but for good cause shown may be made at any time before commencement of trial." Here, the People announced their readiness on March 1, 2007, which was delusional, because 15 Months later on November 19, 2007, they requested DNA, and did not show good cause for the delay. Instead, told the court's that, the specialist that who did the DNA matching would not testify, unless New DNA is provided. Therefore, the People were not ready until after the forcefully taking of the DNA. (See, A001-A019). Here, pretrial counsel Mr. Siff raised no objections, but rather took on an adverse role of the prosecution, by agreeing with the prosecution. (A003-A010)

However, on November 14, 2007, six and a half months later, "the People orally requested DNA by way of buccal swab, I refused. (A003-A013). On November 19, 2007, I was brought back before the Court at which time the People filed an untimely "late" discovery request seeking DNA, the Court granted said request. (A011-A015).

On December 14, 2007, Appellant-Defendant filed a CPL § 30.30 motion, in the Supreme Court, raising two issues,(1) The People's initial statement of readiness was illusionary supported by their late request seeking DNA; (2) My rights pursuant to CPL § 30.30 were subsequently violated. (A020-A026).

The Court orally denied defendant's CPL § 30.30 motion (See Cf.)

On May 18, 2008, Appellant-Defendant was assigned new counsel Joshua D. Martin, which this new counsel, told Appellant, the Court and People, that he could not in good faith oppose the force order, because there was case law in the taking of DNA by way of buccal. (A016-A017). Due to

no opposition by any of the said attorney's, on June 5, 2008, Appellant-Defendant's DNA was forcefully taken (A014-A015).

In May 10, 2010, a jury trial commenced, three hours later, a verdict of guilty was returned. The evidence presented for members of the jury to consider, was the unlawfully taken of Appellant-Defendant's DNA June 5, 2008. Therefore, the People needed this untimely evidence to secure a conviction.

Here, to be sure, CPL § 240.90 (1) prohibits the prosecution form obtaining a DNA sample beyond the 45-days period permitted, was a simple one. There was no reason or strategically reason why Mr. Siff, and Mr. Martin experienced in both law and facts would fail to oppose, when the law would have them object to untimely discovery, cannot be deemed sufficient representation or be excused.

On June 21, 2011, my Appellate counsel Mrs. Kendra L. Hutchinson, wrote me a "16 page letter" answering my questions, and in the letter on (A031), Mrs. Hutchinson said she could not argue that their statement of readiness was illusory because they did not seek your DNA until a number of months after your arrest, (A031-A035). Here, Appellate counsel Mrs. Hutchinson was completely wrong pursuant to CPL § 240.90 (1) (See, Schmerber v. California, 384 U.S. & 57; Matter of Abe A., 56 NY.2d 288, 295, 297 (1982) (applying a "Fourth Amendment inquiry... focusing on the bodily intrusion itself.") (A031-A042)

In New York State, the legislation has intervened and changed CPL § 440.10 (2) (b) and (c) L. 2021, C. 501, § 1 effective date October 25, 2021, 2, pars (b), (c), C 501, § 1 which has inserted,("unless then issue raised upon such motion is ineffective assistance of counsel") ch paragraph and made par. (c) gender neutral. (A043-A048). Here, the ground is limited to intervening circumstances or substantial or controlling effect or to other substantial grounds not previously presented.

Due to the change of law in New York State, CPL § 440.10 (2) (b) and (2) (c), L.2021, c.501, § 1, which now states, unless the issue raised upon such motion is ineffective assistance of counsel (A043-

A048) prompt Appellant-Defendant to bring a CPL § 440.10 (1) (h) motion raising ineffective assistance of counsel. In considering the lower courts abusive discretion in reaching arbitrary denials by proceedings a trial record that is not developed for the purpose of litigating or preserving the claim of ineffective assistance of counsel. "In doing so, the analogous procedural bars commonly used by the lower court's to deny a defendant's "mixed claim" was re-moved (A043-A048).

I-light of the retroactive change in the law, on February 1, 2022, Appellant-Defendant Thompson moved to have his claim of "ineffective assistance of counsel's"... concerning counsel's less than meaningful representation considered "in its entirety." (A049-A071).

On April 19, 2022, the respondent's filed their response to Appellant-Defendant CPL § 440.10 motion, arguing that the court should not entertain the Appellant's instant motion because, Appellant has failed to seek permission to file the same pursuant to the lower court's decision entered March 18, 2016. Petitioner has not included the respondent's response herein his Appendix, but respectfully ask this court to obtain their opposition from the lower court.

However, on May 12, the presiding judge (Hon. Donna-Marie E. Golia, JSC) entered a written decision/order into the record (A072-A077) denying Appellant's-Defendant's CPL § 440.10 motion.

Here in Appellant's-Defendant 440 motion, Appellant argued that he was denied effective assistance of counsel in that his attorney's failed to object to the People's late request for DNA, ensure that good had been. Shown on the record for the respondent's late motion to obtain his DNA sample or raise any objection to ensure that the trial court properly calculated all excluded time in deciding his CPL § 30.30 motion (A020-A026) in that regard, Appellant-Defendant seeks an order reversing the court's decision denying his CPL § 30.30 motion or alternatively, remitting the matter back to "County Court" to conduct the appropriate inquiry with the assistance of new counsel being assigned. In the respondent's response, they argued that the motion must be denied per the Court decision dated March 18, 2016. The People also asserted, that Defendant's claims are not proper for CPL § 440.10 motion, because they

are based on facts that appear on the record. The people further aver that Defendant's claims have already been rejected by the court or could have been raised in his prior motions to vacate judgment.

On June 14, 2022, Appellant-Defendant filed a Notice of Appeal to New york State Appellate Division Second Department, appealing the lower court's decision dated May 12, 2024 (A078-A091). On July 29, 2022, New York State Appellate Division for the Second Department denied (A092).

On May 30, 2023,I Appellant-Defendant filed a motion for an order authorizing the District Court to consider a Successive or Second Habeas Corpus Application pursuant to 28 U.S.C. §§ 2244 (b), 2254 by a prisoner in state custody. (A093-A103). And on June 26, 2023, a (3) judge Panel denied the Successive Habeas Petition (A104-A105).

REASON FOR GRANTING THE WRIT

On December 30, 2023, Appellant-Defendant, filed a Writ of Mandamus in this Court (Se Ex "A" Writ of Mandamus filed, December 30, 2023).On April 1, 2024, the Writ of Mandamus was denied by this Court (A106).

On April 15, 2024, Appellant-Defendant wrote to (Hon. Justice Mrs. Ketanji Jackson, Associate Justice of this Court) for reconsideration of the April 1, 2024 decision. (A107-A111). On April 23, 2024,this Court clerk wrote to me informing me what I need to file (A112). At this time, I Appellant-Defendant, request that the full panel of justices re-hear my writ of mandamus that was denied on April 1, 2024. (See Writ of mandamus as Exhibit "B" of the attached exhibits to this motion).

In Appellant-defendant's motion for writ of mandamus, the reasons for granting the petition was due, to New York State Legislators and drafters, of the Statutes CPL §§ 440.10 (2) (b) (c), considered the lower court's abusive discretion in reaching arbitrary of preserving the claim of "ineffective assistance of counsel." In doing so, the analogous procedural bars commonly used by the lower courts to deny a defendant's "mixed claim" was removed and in-light of this retroactively effective change of

law (A043-A048), caused petitioner to have his claim concerning counsel's less than meaningful representation considered "In its entirety"

In Appellant's-Defendant motion for writ of mandamus, the remedy Petitioner relied on, Banker's Life & Cas. Co. V. Holland, 346 U.S. 379, 3820385, 74 S.Ct. 145, 147-149; Ex Parte Fahey, 332 U.S. 258, 259, 67 S.Ct. 1558. Appellant-Defendant, recognized and argued, that mandamus has traditionally issued in response to abuses of judicial power. Thus, where the district judge refused to atke some action he is required to take or take some action he is not empowered to take, mandamus will lie relying on Banker's Life & Cas. Co. v. Holland, 346 U.S. 379, 384, 74 S.Ct. 145.

Herein, Petitioner's case, the United States Court of Appeals for Second Circuit denied Petitioner from filing a Second Successive Habeas Corpus re-garding 28 U.S.C. § 2254 Petition based on a new Rule of Constitutional law (A043-A048). In a (3) judge panel, they stated in their decision/order at (A104-A105). This decision is what caused Petitioner to bring the initial writ of mandamus to this court, because, L.R. 40.2 says, when the court disposes of an appeal by a final three-judge order without entry of a separate judgment, a party may file a motion for Reconsideration En Banc See L.R. 40.2. Petitioner filed a motion for reconsideration en banc, due to the New Law that took effect October 25, 2021 (L.2021-c.501) regarding ineffective assistance of counsel. Because, the second circuit (3) three panel judge denied Petitioner's reconsideration en banc motion, on the that supports his contentions and took an action that their not power to do, mandamus will lie Banker's Life & Cas Co. v. Holland, 346 U.S. 379, 387, 74 S.Ct. 145. Petitioner asked this Court to issue a writ of mandamus in aid of the Appellate Jurisdiction that might otherwise be defeated by unauthorized action of the Court below. McClellan v. Carland, 217 U.S. 268.

Petitioner herein, also recognized in his motion for writ of mandamus to this court, that although, writ of mandamus, has traditionally been used in the Federal Courts only "to confine an inferior court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority

when it is duty to do so (relying on Will v. United States, 389 U.S. at 95, 88 S.Ct. at 273, quoting Roche v. Evaporated Milk Assn., #19 U.S. 21, 26, 63 S.Ct. 938, 941. Here, the Petitioner argued that, the second circuit was duty bound to exercise its authority when it was duty to do so on Petitioner's application for a successive second habeas corpus, especially when a New Rule of law has been added. "Ineffective Assistance of counsel."

CONCLUSION

WHEREFORE, Petitioner respectfully request that this court re-hear Petitioner's motion for WRIT OF MANDAMUS to compel the lower federal court second circuit to exercise its authority, when it was duty to do so.

Dated: June 19, 2024
Napanoch, New York

Respectfully Submitted

MR. DERRICK THOMPSON 10A2753 *Pro se*
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AFFIRMATION

I Derrick Thompson, make this Affirmation Certifying that the grounds are limited to intervening circumstances or substantial or controlling effect or to other substantial grounds not previously presented.

I, also Certify that the petition for Re-hearing is presented in good faith, and not for delay.

Dated: June 19, 2024, 2024
Napanoch, New York

Respectfully Submitted

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No. 23-6565

SUPREME COURT OF THE UNITED STATES

In Re DERRICK THOMPSON – PETITIONER

VS.

PATRICK GRIFFIN RESPONDENT(S)

PROOF OF SERVICE

I, Derrick Thompson, do swear or declare that on this date of June 25, 2024, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR RE-HEARING OF WRIT OF MANDAMUS on each party to the above proceeding or that party's counsel, and on every other person required to be served by depositing an envelope containing the above documents I the United States mail properly addressed to each of them and first-class postage prepaid, or by delivery within calendar days.

The names and addresses of those served are as follows: Attorney General Letitia James StateCapitol-Box-7341, Albany New York, 12224-0341

I declare under penalty that the foregoing is true and correct.

Executed on June 25, 2024

MR. DERRICK THOMPSON
Petitioner-*Pro se*