

CASE NUMBER: _____

IN THE UNITED STATES SUPREME COURT

REGINALD BURRELL

Appellant/Petitioner

v.

STATE OF ALABAMA

STEVE MARSHAL (ATTORNEY GENERAL)

KENNETH PETERS (WARDEN)

MOTION FOR EXTENSION OF TIME,
TO AN INDIVIDUAL JUSTICE, TO
FILE A WRIT OF CERTIORARI
PURSUANT RULE 30, SUPREME
COURT RULES, OR THE CLERK.

Appellant/Petitioner brings this motion (Application) certainly under extraordinary circumstances. July 11, 2023 Appellant learned that the Attorney or The Hernandez Law Firm in which he previously paid in full \$4,500 to represent him on the same legal issue, concerning the writ of certiorari he now seek this extension of time for, has abruptly, without advance

notice to Appellant, changed course, and leaving him without representation, causing Appellant to pursue the writ of certiorari so his access to the Courts may be realized, if you will please take in consideration the following.

THE BASIS FOR JURISDICTION IN THIS COURT

March 20, 2023 a unidentified or unnamed Judge, (Single Judge) issued a order from within the Eleventh Circuit Appeals Court denying Appellant A certificate of appealability solely based on fraud and misrepresentation done by a officer within the U.S. District Court.

Appellant's objections to the fraud and misrepresentations made before the District Court, and again, within his Notice of Appeal, was totally ignored, disregarded, permitting the fabrications to become public records in federal database as true, when officers of both courts was on notice that their opinions and findings were indeed falsified. In spite of the repeated notices, officers within both District and Eleventh Circuit allowed falsified opinions and findings to be their bases to deny Appellant A certificate of Appealability. The specific Fraud and Misrepresentations are the following:

1. Reginald Burrell is an Alabama prisoner, -serving a 30-year sentence
2. He filed a pro se 28 U.S.C. § 2254 petition
3. He challenging the method by which Alabama Department of Corrections calculated his sentence and applied incentive time credits.
4. He challenge state courts decisions denying him leave to proceed without the prepayment of fees.

April 24, 2023 the Eleventh Circuit Appeals Court denied reconsideration that Appellant filed March 20, 2023. The denial of Appellant's Motion for reconsideration of the single Judge order could only reiterate the facts, material evidence that was presented to the District Court, but ignored and excluded as if it did not exist, which support's the following:

1. THERE NEVER WAS A 28 U.S.C § 2254 PETITION FILED IN THE DISTRICT COURT, THE APPLICATION WAS A COURT PROVIDED, GENERAL HABEAS CORPUS PETITION. IMPROPERLY REFERRED TO AS A § 2254.

2. The Certified Sentencing Order from the Circuit Court of Mobile County Alabama, material fact, that he was no longer serving the 30 year sentence.
3. Clarifying his HABEAS Corpus Application claim that he began serving A 15 year sentence August 17, 2018.
4. Clarifying his HABEAS Corpus Application, ~~claim that~~ Exhaustion of state court remedy claim, that he was actually indigent, his inability to pay state courts filing fees, and state court remedies was not available to him, ineffective, or inadequate.
5. Clarifying that the state court remedy that was available, and without cost in advance, even that remedy was abruptly foreclosed by the imposition of unlawful fees.
6. Clarifying that there was a federal right for indigent criminal defendant to access the courts without being required to prepay filing fees as determined by the U.S. Supreme Court.
7. Clarifying an offenders federal right to an legitimate expectancy of the length and extent of their sentence.

WHY AN EXTENSION OF TIME IS JUSTIFIED

Even when the available state court remedy prohibited it's Courts' from requiring pay in advance, the Court required Appellant to pay in advance. Although State Law require's state Courts' to base their decision whether a prisoner is indigent on the ~~prisoner~~ available institutional account balance, state Courts based Appellant's indigency on money he had in the past, when he simply could not afford the amounts of money state Courts require in advance, in full. State Courts made a decision to deny an indigent person access to the Court against clearly established federal law, as determined by the U.S. Supreme Court. The U.S. District Court ignore this federal law. And the Eleventh Circuit Appeals Court sanctioned this departure. In addition, Appellant sentence to be served, ordered by a Court of competent jurisdiction should not be denied by prison officials personal agenda's. Neither the District Court nor Eleventh Circuit addressed Appellant's specific claims. Appellant works a full time Job at Dorsey Trailers, five days a week, and has been under a false impression by a Law firm that they were going to represent my legal issue, which if it would have been true, I would have relied on the firm to seek relief however appropriate.

Exhibit A. Single Judge Order Denying Certificate of Appealability, March 20, 2023

Exhibit B. Appellant's Motion To Reconsider
11th Cir. R. 27-1 (d), March 27, 2023

Exhibit C. Eleventh Circuit Appeals Court denial of Reconsideration, April 24, 2023

Reginald Burrell

REGINALD BURRELL

Elba Community Based Facility


1620 Boswell Street

Elba, AL 36323

CERTIFICATE OF SERVICE

The Appellant/ Petitioner, Reginald Burrell, hereby certify by my signature below, that on this 12th day of July 2023, have deposited the foregoing Motion For Extension of Time with Exhibits A, B, C, into the designated, internal legal mail system or box, at Elba Community Based Facility 1620 Boswell Street Elba, Alabama 36323, with postage prepaid and/or certified mailing, first class mail, to the following:

- OFFICE OF THE CLERK
SUPREME COURT OF THE UNITED STATES
WASHINGTON, D.C. 20543-0001
- UNITED STATES COURT OF APPEALS
ELEVENTH CIRCUIT
56 FORSYTH STREET, N.W.
ATLANTA, GEORGIA 30303
- UNITED STATES DISTRICT COURT
155 ST. JOSEPH STREET
MOBILE, ALABAMA 36602
- ATTORNEY GENERAL OFFICE
501 WASHINGTON AVENUE
P.O. Box 300152
Montgomery, AL 36130-0152


Reginald Burrell
210704

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

Exhibit C

No. 22-12799-A

REGINALD BURRELL,

Petitioner - Appellant,

versus

CHILDERSBURG WR/CWC WARDEN,

Respondent - Appellee,

STEVE WATSON,

Respondent.

Appeal from the United States District Court
for the Southern District of Alabama

Before: JILL PRYOR and GRANT, Circuit Judges.

BY THE COURT:

Reginald Burrell has filed a motion for reconsideration of this Court's March 20, 2023, order denying a certificate of appealability and leave to proceed *in forma pauperis*. Upon review, his motion is DENIED because he has raised no new evidence or argument of merit to warrant reconsideration.

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 22-12799-A

Exhibit A

REGINALD BURRELL,

Petitioner - Appellant,

versus

CHILDERSBURG WR/CWC WARDEN,

Respondent - Appellee,

STEVE WATSON,

Respondent.

Appeal from the United States District Court
for the Southern District of Alabama

ORDER:

Reginald Burrell is an Alabama prisoner, serving a 30-year sentence for first-degree robbery and a, later imposed, 15-year concurrent sentence for third-degree escape. He filed a *pro se* amended 28 U.S.C. § 2254 petition, challenging the method by which the Alabama Department of Corrections (“ADOC”) calculated his sentence and applied “incentive time” credits. He also appeared to challenge the state courts’ decisions denying him leave to proceed without the prepayment of fees. In support of these claims, he did not rely on federal law in state court.


The district court dismissed the petition and, alternatively, denied it. It concluded first that Burrell’s claims were unexhausted because he failed to raise them as matters of federal law in state court. Second, the court concluded that the § 2254 petition only raised claims arising under state

Exhibit A

law, for which federal habeas relief was unavailable. Burrell appealed and now moves this Court for a certificate of appealability (“COA”) and leave to proceed *in forma pauperis* (“IFP”).

In order to obtain a COA, a movant must make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). When the district court denied a habeas petition on procedural grounds, the petitioner must show that reasonable jurists would debate (1) whether the petition states a valid claim of the denial of a constitutional right, and (2) whether the district court was correct in its procedural ruling. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Here, reasonable jurists would not debate the district court’s conclusion that Burrell’s § 2254 petition raised only claims of state law. To the extent that he challenged the recalculation of his sentence or the calculation of “incentive time” credits, those were matters purely of state law. *See Willeford v. Estelle*, 538 F.3d 1194, 1196 (5th Cir. 1976). Likewise, the state courts’ procedural decisions on whether to grant or deny IFP did not implicate federal law. *See Callahan v. Campbell*, 427 F.3d 897, 932 (11th Cir. 2005). Accordingly, Burrell’s motion for a COA is DENIED and his motion for IFP is DENIED AS MOOT.


UNITED STATES CIRCUIT JUDGE

**Additional material
from this filing is
available in the
Clerk's Office.**