

TRULINCS 46959380 - BLAKE, ROBERT TIMOTHY - Unit: BAS-A-A

FROM: 46959380

TO: ~~TRUST FUND~~

SUBJECT: ***Request to Staff*** BLAKE, ROBERT, Reg# 46959380, BAS-A-A

DATE: 06/27/2023 06:54:10 PM

To: Clerk, Supreme Court Of The United States
Inmate Work Assignment: UNICOR

Federal Correctional Institution
Robert Timothy Blake
46959380
FCI Bastrop
P.O. BOX 1010
Bastrop, Texas 78602

TO:
Clerk
Supreme Court Of The United States
1 First Street, NE
Washington DC, 20543

June 27 , 2023

RE: Robert Timothy Blake (Pro Se). Case No.22-51054 , Doc. No.44-2 ,Filed 05/23/2023. Fifth Circuit Court Of Appeals.
---On A Petition for Certiorari.

Dear Clerk of the Court,

I am writing to you today to respectfully request the Court to please Grant Petitioner a full--- 90 Days---- to Petition the Court for a Writ of Certiorari, from todays date June 27, 2023.

My reason for this request, is due to the fact, that I was JUST notified of the Circuit Court's DENIAL of my request for a Reconsideration For a Rehearing And Rehearing En Banc" (see enclosed No.22-51054 , Doc No. 44-2).

I have been notified by the Circuit Court of it's denial -----over 30 day's late.

I understand that I will have only 90 day's from the Date on the Circuit Court's Denial. However I was not properly notified, and not on time. I had to inquire of the status, and was only informed after I experienced silence from the Circuit Court. I have lost 30 days ,plus.

My request to you today, is to please allow me to Toll the time from the date of the Court's Denial, and start my 90 day's from

Today, the day I received notice of the Denial , 6/27/2023. (see Attached Postmark envelope , Doc No.44-2)

Please Notify ^emy of your decision at the Address above. I will proceed as if I have lost 30 days of time , unless I get a revised time limit from the Court , from this request.

I certify and swear, that I was just provided the Circuit Court's Denial today at FCI Bastrop Prison, By regular Mail ,on 06/27/2023.

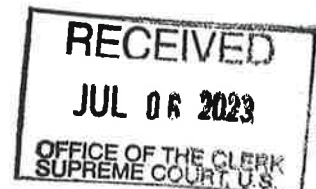
The above is true and communicated to the best of my ability, and sworn as fact ,under the Penalty of the Law.

Respectfully Submitted,

Robert Timothy Blake
46959380

Robert Timothy Blake 6/27/2023

This Letter was Placed into the Prison Mail Box at FCI Bastrop Low, on June/28/2023.



United States Court of Appeals
for the Fifth Circuit

No. 22-51054

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ROBERT TIMOTHY BLAKE,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:18-CV-994

ON MOTION FOR RECONSIDERATION
AND REHEARING EN BANC

UNPUBLISHED ORDER

Before ELROD, GRAVES, and HO, *Circuit Judges.*

PER CURIAM:

The motion for reconsideration is DENIED. Because no member of the panel or judge in regular active service requested that the court be polled on rehearing en banc (FED. R. APP. P. 35 and 5TH CIR. R. 35), the petition for rehearing en banc is DENIED.

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT
OFFICE OF THE CLERK
F. EDWARD HERBERT BUILDING
600 S. MAESTRI PLACE
NEW ORLEANS, LOUISIANA 70130-3408

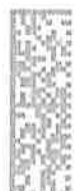
OFFICIAL BUSINESS

Mr. Robert Timothy Blake
#46959-380
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1341 Highway 95 N., P.O. Box 1010
Bastrop, TX 78602-1010

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United States Court of Appeals
for the Fifth Circuit

No. 22-51054

United States Court of Appeals
Fifth Circuit

FILED

March 30, 2023

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ROBERT TIMOTHY BLAKE,

Defendant—Appellant.

Application for Certificate of Appealability
the United States District Court
for the Western District of Texas
USDC No. 5:18-CV-994
USDC No. 5:15-CR-66-1

ORDER:

Robert Timothy Blake, federal prisoner # 46959-380, is serving consecutive 262-month and 22-month sentences for distribution of child pornography and possession of child pornography, respectively. Blake seeks a certificate of appealability to appeal the district court's denial of his 28 U.S.C. § 2255 claim following our decision granting a certificate of appealability, vacating and remanding for an evidentiary hearing, on whether counsel incorrectly advised Blake of the likely penalty he would face if he accepted the plea agreement. Blake argues that the district court erred in its adverse credibility

No. 22-51054

determination following the evidentiary hearing. Blake further argues that he sufficiently proved that counsel's failure to explain the Guidelines and counsel's erroneous advice that he would likely receive a sentence of probation or a light sentence upon pleading guilty amounted to ineffective assistance.

To obtain a certificate of appealability, Blake must make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). He "must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Blake has failed to make the requisite showing.

In addition, for the first time on appeal, Blake argues that counsel rendered ineffective assistance by failing to investigate and provide him with evidence prior to his guilty plea, as well as that the transcript of the evidentiary hearing was modified to exclude significant and relevant testimony. We do not consider these claims because they are raised for the first time on appeal. *See Black v. Davis*, 902 F.3d 541, 545 (5th Cir. 2018).

Accordingly, Blake's request for a certificate of appealability is DENIED. His request to proceed *in forma pauperis* is DENIED AS MOOT.

Jennifer Walker Elrod

JENNIFER WALKER ELROD
United States Circuit Judge