NO. 24-6874

IN THE SUPREME COURT OF THE UNITED STATES

In re. ROBERT D. BATSON

PETITIONER,

VS.

DAVID J. SMITH, CLERK OF COURT
JOHN DOE, STAFF ATTORNEY
ELEVENTH CIRCUIT COURT OF APPEAL

RESPONDENT(S)

PETITION FOR WRIT OF MANDAMUS

Robert A Batson

ROBERT BATSON, DC# 708431
UNION CORRECTIONAL INSTITUTION
P.O. BOX 1000
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QUESTION(S) PRESENTED

I.

WHETHER ELEVENTH CIRCUIT COURT OF APPEAL HAS CREATED LOCAL RULES OF APPELLATE PROCEDURE THAT ARBITRARILY AND UNREASONABLY ENCROACHED UPON THE PERSONAL RIGHTS AND LIBERTIES OF PRO SE LITIGANTS AND RUN AFOUL OF THE CONSTITUTIONAL GUARANTEE OF ACCESS TO THE COURTS AND DUE PROCESS OF LAW AS SECURED BY THE FIFTH AND FOURTEENTH AMENDMENTS TO THE U.S. CONSTITUTION

II.

WHETHER CLERK OF COURT AND STAFF ATORNEY ERRONEOUSLY APPLIED ELEVENTH CIRCUIT COURT OF APPEAL LOCAL RULES IN A MANNER INCONSISTENT WITH FEDERAL LAW WARRRANTING MANDAMUS AND INJUNCTIVE RELIEF TO COMPEL COMPLIANCE THEREWITH.

LIST OF PARTIES

[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.

Doe, John, Staff Attorney, Eleventh Circuit Court of Appeal.

Luck, J. Eleventh Circuit Court of Appeal Justice.

Rosenbaum, Robin. Eleventh Circuit Court of Appeal Justice.

Smith, David, Clerk of Court, Eleventh Circuit Court of Appeal.

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TABLE OF AUTHORITIES CITED

OTHER CITATION'S

IN THE SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF MANDAMUS

Petitioner respectfully prays that a Writ of Mandamus Issue to Review the Judgment below.

OPINIONS BELOW

[X] For Cases from Federal Courts:

The Opinion of the United States Court of Appeals appears at **Appendix (A) & (B)** of the Petition and Are:

[X] Unpublished.

JURISDICTION

[X] For Cases from Federal Courts:

The date on which the United States Court of Appeals decided Petitioners Case was **November 18th 2024**, and **December 13th 2024**.

The Jurisdiction of this Court is Invoked under 28 U.S.C. §1651; 28 U.S.C. §1361; §28 U.S.C. §1331; and Supreme Court Rule 20.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

ARTICLE V. UNITED STATES CONSTITUTION

NO PERSON SHALL BE HELD TO ANSWER FOR A CAPITAL OR OTHERWISE INFAMOUS CRIME, UNLESS ON A PRESENTMENT OR INDICTMENT OF A GRAND JURY; ... NOR SHALL ANY PERSON BE SUBJECT FOR THE SAME OFFENSE TO BE TWICE PUT IN JEOPARDY OF LIFE OR LIMB; ... NOR SHALL BE COMPELLED IN ANY CRIMINAL CASE TO BE A WITNESS AGAINST HIMSELF; ... NOR BE DEPRIVED OF LIFE, LIBERTY, OR PROPERTY WITHOUT DUE PROCESS OF LAW.

ARTICLE XIV. UNITED STATES CONSTITUTION

NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL ABRIDGE THE PRIVILIEGES OR IMMUNITIES OF CITIZENS OF THE UNITED STATES; ... NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY WITHOUT DUE PROCESS OF LAW; ... NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAW.

FEDERAL RULE'S OF APPELLATE PROCEDURE

FRAP RULE 1. COMMITTEE NOTE'S.

PRACTICE AND PROCEDURE IN THE ELEVEN COURTS OF APPEALS ARE NOW REGULATED BY RULE'S PROMULGATED BY EACH COURT UNDER THE AUTHORITY OF 28 U.S.C. §2071; FRAP RULE 47 EXPRESSSLY AUTHORIZES THE COURTS OF APPEAL TO MAKE RULE'S OF PRACTICE NOT INCONSISTENT WITH THESE RULE'S.

FEDERAL RULES OF APPELLATE PROCEDURE

FRAP. RULE 27 MOTION'S.

(b) DISPOSITION OF A MOTION FOR A PROCEDURAL ORDER: THE COURT MAY, BY RULE OR ORDER, AUTHORIZE ITS CLERKS TO ACT ON SPECIFIED TYPES OF PROCEDURAL MOTIONS, ... A PARTY ADVERSELY AFFECTED BY THE CLERKS ACTION MAY FILE A MOTION TO RECONSIDER, VACATE, OR MODIFY THAT ACTION.

FRAP. RULE 47. LOCAL RULE'S BY COURTS OF APPEALS:

(a)(1). A LOCAL RULE MUST BE CONSISTENNT WITH ACTS OF CONGRESS AND RULE'S ADOPTED UNDER 28 U.S.C. §2072.

ELEVENTH CIRCUIT COURT OF APPEAL LOCAL RULE'S

LOCAL RULE 27-3. SUCCESSIVE MOTION'S FOR RECONSIDERATION NOT PERMITED:

A PARTY MAY FILE ONLY ONE MOTION FOR RECONSIDERATION WITH RESPECT TO THE SAME ORDER, LIKEWISE, A PARTY MAY NOT REQUEST RECONSIDERATION OF AN ORDER DISPOSING OF A MOTION FOR RECONSIDERATION PREVIOUSLY FILED BY THAT PARTY.

LOCAL RULE 47-4. STAFF ATTORNEY'S:

UNDER THE SUPERVISION OF A SENIOR STAFF ATTORNEY, A CENTRAL STAFF OF ATTORNEY'S SHALL BE MAINTAINED AT ATLANTA, GEORIGA, TO ASSIST THE COURT IN LEGAL RESARCH, ANALYSIS OF APPELLATE RECORDS AND STUDY OF PARTICULAR LEGAL PROBLEMS AND SUCH OTHER DUTIES AS THE COURT DIRECTS.

ELEVENTH CIRCUIT COURT LOCAL I.O.P. RULE(S)

I.O.P. RULE 47.4.: OFFICE OF STAFF ATTORNEY'S:

THE OFFICE IS COMPRISED OF A SENIOR STAFF ATTORNEY, STAFF ATTORNEY'S, AND SUPPORTING CLERICAL PERSONEL. THIS OFFICE ASSIST THE COURT IN LEGAL RESEARCH ANALYSIS OF APPELLATE RECORDS, AND STUDIES OF PARTICULAR LEGAL PROBLEMS. IT ALSO ASSIST IN HANDLING PRO SE PRISONER MATTERS. IN MANY CASE'S THE OFFICE PREPARES MEMORANDA TO ASSIST JUDGE'S.

I.O.P. RULE 47.9.b.: ADMINISTRATIVE MOTION'S PROCEDURE:

11. PRO SE APPLICATIONS: THE CLERK'S OFFICE PROCESSES AND ANSWERS PRISONER AND OTHER PRO SE CORRESPONDENCE WITH THE ASSISTANCE OF THE STAFF ATTORNEYS OFFICE, WHEN A PRO SE PETITION IS IN THE PROPER FORM FOR DOCKETING AND PROCESSING, IT IS ROUTED TO THE STAFF ATTORNEYS OFFICE, THIS OFFICE PREPARES LEGAL MEMORANDA FOR THE COURT ON SUCH INTERLOCUTORY MATTERS AS APPLICATIONS FOR LEAVE TO APPEAL IN FORMA PAUPERIS, CERTIFICATES OF APPEALABILITY, AND APPOINTMENT OF COUNSEL, AND OTHER PRO SE MATTERS.

STATEMENT OF THE CASE

1). On August 28th 2018, Petitioner was tried and convicted of Possession of Firearm by Convicted Felon.

2). On October 15th 2019, Petitioners Direct Appeal was affirmed by the Florida Appellate Court.

3). On March 13th 2020, Petitioner filed a Petition for Writ of Habeas Corpus alleging Ineffective Assistance of Appellate Counsel.

4). On April 29th 2020, the State Appellate Court denied the Habeas Petition.

5). On May 27th 2020, Petitioner filed a timely **§2254** Habeas Corpus Petition in the U.S. District Court of Florida—Middle District.

6). On September 21st 2023, the Court denied the **§2254** Petition.

7). A Timely Appeal was taken to the Eleventh Circuit Court of Appeal, Atlanta Georgia, resulting in **Case No: 23-13270-E** and an Application for C.O.A. was submitted.

8). On April 9th 2024, the **Honorable Justice Robin Rosenbaum** denied Petitioners request for COA. **See Exhibit (C) of Appendix.**

9). Petitioner filed a Timely Motion for Reconsideration, which was likewise denied on July 25th 2024. **See Exhibit (D) of Appendix.**

10). On November 1st 2024, Petitioner filed a **Rule 60(b) Motion** seeking to Re-Open his Case and have the denial of his COA Reconsidered. **See Exhibit (E) of Appendix.**

11). On November 18th 2024, the Clerk of Court dismissed the **Rule 60(b) Motion** as a Second or Successive Motion for Reconsideration under **Local Rule 27-3. See Exhibit (B) of Appendix.**

12). On December 9th 2024, Petitioner **Re-Filed his Rule 60(b) Motion** with the Eleventh Circuit Court of Appeal, which was again dismissed by the Clerk of Court on December 13th 2024 on the Same Basis. **See Exhibit (A) of Appendix.**

13). Hence, because Petitioner has no other Adequate Remedy at Law to Effect the Purpose and Intent of **Rule 60(b)** and Estop the erroneous dismissal of his Pleading by the Clerk of Court, to which he had a Lawful Right to file and have heard under Rules Promulgated by this Court, Petitioner respectfully moves this Honorable Court for Mandamus and Injunctive Relief to Ensure his Constitutional Rights to Access To The Courts and Due Process of Law are protected under the U.S. Constitution.

REASONS FOR GRANTING THE PETITION

Eleventh Circuit Court of Appeal has Adopted Local Rules of Procedure that are not only found to be Inconsistent with Rule of Procedure promulgated by this Court under **28 U.S.C. §2072**, but Violative of the Prohibition expressed in **FRAP Rule 47.**

Furthermore, because **Rule 60(b)** has Created the Right to seek Vacatur of a Judgment or Order entered against a Party for Reasons specified by this Court, it cannot be said that such Rule does not likewise create a corresponding Legal Duty upon the Respondents to effect the purpose and intent of such Rule when a Pleading is filed with the Court.

However, because the Respondents have failed to Act within the Scope of Their Lawful Duty to effect the intent and purpose of **Rule 60(b)** upon the filing of Petitioners pro se **Rule 60(b) Motion**, and no other Adequate Remedy at Law Exist to Compel such Performance Owed to Petitioner, the Writ should issue to Compel Compliance with the Rule in order to protect Petitioners Rights.

JURISDICTIONAL STATEMENT

Under the provisions of **28 U.S.C. §1651(a); 28 U.S.C. §1361;** and **Supreme Court Rule 20,** this Honorable Court has ***Original Jurisdiction*** over any Action in the form of Mandamus to Compel an Officer or Employee of the United States or Any Agency thereof to Perform a Duty Owed to a Party and may Issue such Writ in

Aid of its Respective Jurisdiction in Exceptional Circumstances, where Adequate Relief cannot be obtained by the Party in any other Form, or from any other Court. Moreover, ***Injunctive Relief*** is further available under the provisions of **28 U.S.C. §1331**, where Federal Officials have violated a Specific Duty that they are Plainly Obligated to carry out. *See* *Bivens v. Six Unknown Named Agents of Fedreal Bureau of Narcotics* 91 S. Ct 1999 (1971) and *Simmat v. U.S. Bureau of Prisons* 413 F. 3d 1225 (10th Cir. 2005)(Noting that the Federal Prisoner could seek "An Injunction, based on the Federal Courts Equity Jurisdiction to enforce the dictates of the Eighth Amendment")

ARGUMENT

This Petition for Writ of Mandamus is premised upon the denial of Petitioner's **Rule 60(b) Motion(s)** seeking Relief from the Order entered denying his Application for COA.

The Denials in which the **Clerk of Court** effected by way **of [No Action Order(s)]**, was done so in violation of Federal Law, Federal Rules of Procedure, and Petitioners Rights to Access to the Courts and by extension, the Due Process Clause(s) of the United States Constitution, which Protect Individuals from Arbitrary and Unreasonable Governmental Interference with a Person's Right to Life and Liberty without Due Process of Law. *See* *County of Sacramento v. Lewis* 118 S. Ct 1708 (1998)(Substantive Due Process bar's "Certain Government Action regardless of the Fairness of the procedures used to implement them")

A.

PETITIONER'S LAWFUL RIGHT

In support of the foregoing Argument, Petitioner would show that **Fed. R. Civ. P., Rule 60(b)** was promulgated by this Court under Federal Law **28 U.S.C. §2072(a)** to allow for the Vacatur of a Judgment or Order based upon **Six-6** Enumerated Reason's, to include that the Judgment is Void.

A Judgment can be rendered Void for Numerous Reasons where the Court Lacked Jurisdiction to enter it, or where it is premised upon a Violation of Due Process that deprives a Party of Notice or an Opportunity to be heard. *See United Student Aid Funds. Inc. v. Espinosa* 130 S. Ct 1367 (2010).

Furthermore, this Honorable Court has specifically held that the Lack of Subject Matter Jurisdiction to enter a Judgment qualifies as an ***"Extraordinary Circumstance"*** under **Rule 60(b)** and failure to entertain such Motion will result in a **Manifest Injustice**. *See Gonzalez v. Crosby* 125 S. Ct 2641 (2005)

Notwithstanding, this Court further established in *Kemp v. United States* 142 S. Ct 1856 (2022) that not only can a Petitioner seek to have his case **Re-Opened** under **Rule 60(b)** based upon a **"Mistake"** made in the prior proceeding, but that a Judge's Error in Law or Fact in such proceeding Constitutes a **"Mistake"** for purposes of **Rule 60(b)** Application. ***Kemp I.d. at 1861.***

In the instant case, Petitioner originally sought COA on **Three-3** Substantive Ground(s) of Constitutional Error that included:

GROUND I. WHETHER APPELLATE COUNSEL WAS INEFFECTIVE FOR FAILING TO RAISE TRIAL COURTS CATEGORICAL EXCLUSION OF ALL PETITIONERS EVIDENCE AND WITNESSES AT TRIAL, DEPRIVING HIM OF A MEANINGFUL OPPORTUNITY TO PRESENT A COMPLETE DEFENSE, CONTRARY TO THE DICTATES OF CHAMBERS V. MISSISSIPPI 93 S. CT 1038 (1973) AND WHETHER THE FLORIDA APPELLATE COURT UNREASONABLY APPLIED STRICKLAND V. WASHINGTON 104 S. CT 2052 (1984) AND JONES V. BARNS 103 S. CT 3308 (1983) WHEN DENYING PETITIONERS HABEAS CORPUS PETITION ALLEGING INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL.

GROUND II. WHETHER APPELLATE COUNSEL WAS INEFFECTIVE FOR FAILING TO RAISE TRIAL COUNSELS INEFFECTIVENESS FOR FAILING TO INVESTIGATE AND FILE MOTION TO SUPPRESS ILLEGALLY OBTAINED EVIDENCE, CONTRARY TO THE DICTATES OF KIMMELMAN V. MORRISON 106 S. CT 2574 (1986) AND WHETHER THE FLORIDA APPELLATE COURT UNREASONABLY APPLIED STRICKLAND V. WASHINGTON 104 S. CT 2052 (1984) AND JONES V. BARNS 103 S. CT 3308 (1983) WHEN DENYING PETITIONERS HABEAS CORPUS PETITION ALLEGING INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL.

GROUND III. WHETHER TRIAL COURT DEPIVED PETITIONER OF A FULL AND FAIR OPPORTUNITY TO LITIGATE HIS FOURTH AMENDMENT CLAIM BY ACQUIESCING TO THE STATES DISCOVERY VIOLATION, AND ORDERING VITAL EVIDENCE TO BE WITHHELD PRIOR TO THE HEARING COMMENCING, DEPRIVING PETITIONER OF DUE PROCESS OF LAW AND WHETHER THE U.S. DISTRICT COURT CORRECTLY CONCLUDED THAT STONE V. POWELL 96 S. CT 3037 (1976) PRECLUDED REVIEW OF THIS CLAIM IN A §2254 HABEAS CORPUS PROCEEDING.

Consequently however, when denying COA as to Each of these Ground(s), **Justice Rosenbaum** stated: **See Exhibit (C) of Appendix.**

Reasonable Jurist would not debate the denial of **Ground(s) I and II.,** The Florida Fifth District Court of Appeal reasonably rejected these Claims, as Batson had an opportunity to raise any claim he wished once the Fifth DCA allowed him to proceed pro se on Direct Appeal and file a replacement Initial Brief.

In fact, he himself argued that the trial court should not have granted the States Motion in Limine, one of the claims that he asserts that Appellate Counsel should have raised.

Further, he could not blame Appellate Counsel for his own decision to not challenge Trial Counsels failure to file a Motion to Suppress, accordingly, Appellate Counsel was not Ineffective.

Additionally, Reasonable Jurist would not Debate the Denial of **Ground III.** as the Fifth District Court of Appeal correctly found that this Claim was Barred because Batson was given a Full and Fair Opportunity to Litigate his Claim in the State Court.

Batson filed a Motion to Suppress that was denied after an Evidentiary Hearing, where he Cross-Examined the States sole Witness at length and presented Oral Argument.

Further the Trial Court provided a Brief Explanation for its Decision to Deny the Motion and the Fifth DCA Rejected this Claim when it was raised on Direct Appeal, thus, the Record reflects that Batson's Fourth Amendment Claim was Fully Litigated in the State Court and as a result, the Claim is Barred from Federal Habeas Review. Accordingly, Batson's COA Motion is Denied.

Based upon the Reasons given and the Statements made denying Petitioners Motion for COA, it cannot be said that **Justice Rosenbaum** did not give Full Consideration of the Factual Claims raised and then relied upon a Merits Determination to deny COA on, to which not only Ran Afoul of the Jurisdictional Prerequisites of **28 U.S.C. §2253**, but certainly Violated the holdings of this Court in *Miller-El v. Cockrell* 123 S. Ct 1029 (2002) and *Buck v. Davis* 137 S. Ct 759 (2014) in which this Court stated when interpreting **§2253's** precursor:

> At the **First Stage**, the only **Question** is whether the Applicant has shown that ***"Jurist of Reason could disagree with the [District Courts] Resolution of this Constitutional Claim or,... could conclude the Issue's presented are adequate to deserve encouragement to proceed further."***
>
> **When a Reviewing Court Inverts the Statutory Order of Operations and First decides the Merits of an Appeal,... then Justifies its Denial of a COA based on its Adjudication of the Actual Merits**, it has in Essence Decided the Appeal **Without Jurisdiction**, Warranting Reversal.

Hence, because **Justice Rosenbaums** gave Full Consideration to the Factual Claims Raised and the Denied Petitioners COA on such Merits Determination, it cannot be said that such Order did not Violate the Jurisdictional Prerequisites of **§2253**, and this Courts holdings in both ***Miller-el*** **and** ***Buck supra,*** thus, providing Petitioner witjh Standing to Challenge the Order under the provisions of **Rule 60(b).** *See Kemp supra. I.d. 142 S. Ct at 1861* (**Rule 60(b)(1)** Applies any time when a Party alleges that a Judge has made an **"Obvious" Legal Error** — ***e.g. the "Failure to Apply Unambiguous Federal Law to the Record Facts"***)

Furthermore, in the past, it has been a Common Practice of the Judiciary to Reconsider a Prior Decision when it is shown that an Error has been made in the Prior proceeding. *See* *Christianson v. Colt Industries* 108 S. Ct 2166 (1988) where this Court held:

> A Court has the Power to **Re-Visit** prior Decisions of its own, although Courts should be loath to do so in the absence of Extraordinary Circumstances, such as where the Initial Decision was **"Clearly Erroneous"** and would work a **Manifest Injustice** if not Corrected.

Petitioner would contend, that this is Routine in Judging and there is nothing Odd or Improper about it, a Paradigmatic Example of when this should be done is when the Court made its Prior Decision without Considering the Legal Standards in a Controlling Opinion such as ***Miller-El*** and ***Buck supra***. *See* *United States v. U.S. Gypsum* 68 S. Ct 525 (1948)(It is Common for an Appellate Court to Reconsider or Change Position when the Court is left with a Definite and Firm Conviction that a Mistake has been Committed)

Thus, because ***Miller-El*** and ***Buck supra*** sets the Framework for Analyzing a Request for COA and it is a **Clear Error of Law** not to Apply Controlling Supreme Court Precedent, it cannot be said that Petitioner did not have a **Lawful Right** to seek Relief from the Order denying his Motion for COA under **Rule 60(b).**

B.

RESPONDENTS CORRESPONDING LEGAL DUTY

Under the provisions of **28 U.S.C. §951 and 28 U.S.C. §956**, the Clerk of Court is required to take an Oath and Faithfully and Impartially discharge the duties of his or her Office as assigned to them by the Court, to include Filing and Routing all Motions and Pleadings to Judge's assigned to Rotation. **See FRAP Rule 25(4), and Eleventh Circuit Local I.O.P. Rule 27.1.**

However, when it comes to pro se Pleadings and Filing's, the Clerk of Court is Authorized under Local Rule, to either provide an Answer to the pro se filing himself, or when such Pleading is in proper form, to Route such Pleading to the Staff Attorneys Office for further processing and disposition. **See Eleventh Circuit Local I.O.P. Rule 47.9(b) 11., which provides:**

> **Pro Se Applications**: The Clerk's Office Processes and Answers Prisoner and Other pro se correspondence with the Assistance of the Staff Attorneys Office.
>
> When a pro se Petition is in Proper Form for Docketing and Processing, it is Routed to the Staff Attorneys Office.
>
> This Office prepares Legal Memoranda for the Court on such interlocutory matters as Applications for Leave to Appeal In Forma Pauperis, Certificates of Appealability, and Appointment of Counsel, and ... **on Other pro se matters.**

Based upon the aforementioned provisions of Federal Law, FRAP Rule's, and Eleventh Circuit Court Local Rule, because Petitioners **Rule 60(b) Motion's** were in Proper Form for Docketing and Processing, there is no doubt that Respondents, ***i.e. (Clerk of Court) and (Staff Attorneys Office)*** had a Corresponding Legal Duty to File, Process and Forward these Motion(s) to a Justice of the Appellate Court for further Disposition and Response.

Consequently however, and Contrary to what the Rule of Law requires, **Respondent (David Smith) Clerk of Court**, either Acting on his Own, or upon the Advice of **Respondent (John Doe) Staff Attorney,** Construed Petitioners **Rule 60(b) Motion** as a **"Successive Motion for Reconsideration"** and Entered **[No Action Order(s)]** dismissing said Motion's under the provisions of **Eleventh Circuit Local Rule 27-3** which provides:

> A Party may File only **One Motion for Reconsideration** with Respect to the Same Order, **Likewise,** ***.... A Party may not Request Reconsideration of an Order Disposing of a Motion for Reconsideration previously filed by that Party.***

Basically, with the Promulgation of **Local Rule 27-3**, the Eleventh Circuit Court of Appeal has Essentially Abrogated the Purpose and Effect of **Rule 60(b)** and the Right to Seek Vacatur from an Order for a Reason Enumerated by this Court Once a Party Files **[One-Motion]** for Reconsideration with the Appellate Court, despite the fact that such Motion Raises Grounds that fall within the Preview of **Rule 60(b).**

Thus, because the Eleventh Circuit Court of Appeal has Created a Local Rule of Procedure that **Nullifies** the very Purpose in which **Rule 60(b)** was Promulgated to Effect, it cannot be said that such Rule should not be **Invalidated**, where, not only does this Rule Violate the Provisions of **FRAP Rule 47**, which specifically **Prohibits Inconsistent Local Rules** from being Promulgated by the Appellate Court, but it further Contrives the Acts of Congress and Rule's Adopted by this Court under **28 U.S.C. §2072**.

C.

NO OTHER LEGAL REMEDY AVAILABLE

Because the Eleventh Circuit Court of Appeal has Created a Local Rule of Procedure that has basically **Nullified** the Operative Effect of **Rule 60(b),** to which Respondents have Relied to Issue the **[No Action Order(s)]** dismissing Petitioners Pleadings ***and to which further Prohibits Reconsideration of the Respondents Actions as well,*** it cannot be said that Petitioner has Another Adequate Remedy at Law to Obtain Relief under, that would preclude the Issuance of a Writ of Mandamus by this Court in the Instant Case.

Although it is not Appropriate for this Court to Expend its Scarce Resources Crafting Opinions that Correct **"Technical Errors"** in Cases of only Local Import, where Correction in no way Promotes the Development of the Law. See *Dobbs v. Zant* 113 S. Ct 835 (1993)(Citing *Anderson v. Harless* 103 S. Ct 279 (1982)).

However, to "**Remain Effective**, this Court should continue to Decide Case's which **Present Question(s)** whose Resolution will have Immediate Importance Far Beyond the Particular Facts and Parties involved." *See Board of Ed. of Rogers v. McCluskey* 102 S. Ct 3469 (1982).

The instant Case presents such Facts that will have a Large Effect beyond the particular Facts of Petitioners case, where there has been Countless Other Pro se Litigants that have Suffered the Same Fate under this **Local Rule of Procedure** and will continue to Suffer in the Immediate Future, Absent Intervention by this Court through the Grant of this Writ Petition. **See Exhibit(s) (F) and (G)(No Action Order(s) entered against George Fields and Patrict Wharen pursuant to the filing of their Rule 60(b) Motion(s) that was premised upon the Exact Same Argument Raised in Petitioners Case)**

CONCLUSION

In sum, Petitioner would aver that the Facts Presented herein above, fall within the preview of an Exceptional Circumstance to Call for an Exercise of this Courts Discretionary Powers to Issue an Extraordinary Writ of Mandamus, specifically where Petitioner has No Other Adequate Legal Remedy at Law to Obtain the Relief Requested, and failure to Grant this Writ will result in a Miscarriage of Justice, not only to Himself, but Numerous Other Pro se Litigants to follow.

Furthermore, the Grant of this Writ would not be a Futile Act, as Petitioners Claims are Meritorious and Presented in God Faith.

Wherefore, based upon the Aforementioned Facts, Argument, and Citation of Authorities, Petitioner respectfully moves this Honorable Court to Grant Mandamus and Injunctive Relief, directing the Respondents to **Show Cause** as to why Petitioner should be Prohibited from Filing a Motion under **Rule 60(b)** seeking Relief from the Order Erroneously Entered Denying his Motion for COA., and why **Local Rule 27-3** should not be **Invalidated** for being found to Contrive the Expressed Authority espoused in **FRAP Rule 47 and 28 U.S.C. §2072.**

Respectfully Submitted

Robert A Batson

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Petitioner pro se.