

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

IN THE  
SUPREME COURT OF THE UNITED STATES

ROBERT TIMOTHY BLAKE — PETITIONER  
(Your Name)

VS.

UNITED STATES OF AMERICA — RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

☒ Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

U.S. DISTRICT COURT, WESTERN DISTRICT OF TEXAS , SAN ANTONIO DIV.

CASE NO.: 5:15-CR-00066-XR . Docket No.: 136, 04/09/2021.

☐ Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

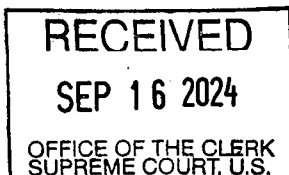
☒ Petitioner's affidavit or declaration in support of this motion is attached hereto.

☐ Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

☐ The appointment was made under the following provision of law: n/a

\_\_\_\_\_, or

☐ a copy of the order of appointment is appended.



Robert T Blake 9-6-24.  
(Signature) 9-25-24.

**AFFIDAVIT OR DECLARATION  
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

I, Robert T. BLAKE, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ <u>110.00</u>	\$ <u>0</u>	\$ <u>110.00</u>	\$ <u>0</u>
Self-employment	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Income from real property (such as rental income)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Interest and dividends	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Gifts	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Alimony	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Child Support	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Unemployment payments	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Public-assistance (such as welfare)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Other (specify): _____	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
<b>Total monthly income:</b>	\$ <u>110.00</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
N/A	N/A	N/A	\$ N/A
N/A	N/A	N/A	\$ N/A
N/A	N/A	N/A	\$ N/A

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
N/A	N/A	N/A	\$ N/A
N/A	N/A	N/A	\$ N/A
N/A	N/A	N/A	\$ N/A

4. How much cash do you and your spouse have? \$ N/A  
Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Type of account (e.g., checking or savings)	Amount you have	Amount your spouse has
N/A	\$ N/A	\$ N/A
N/A	\$ N/A	\$ N/A
N/A	\$ N/A	\$ N/A

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

☐ Home  
Value N/A

☐ Other real estate  
Value N/A

☐ Motor Vehicle #1  
Year, make & model N/A  
Value 0

☐ Motor Vehicle #2  
Year, make & model N/A  
Value 0

☐ Other assets  
Description N/A  
Value 0

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
<u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
<u>N-A</u>	\$ <u>N-A</u>	\$ <u>N-A</u>
<u>N-A</u>	\$ <u>N-A</u>	\$ <u>N-A</u>

7. State the persons who rely on you or your spouse for support. For minor children, list initials instead of names (e.g. "J.S." instead of "John Smith").

Name	Relationship	Age
<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>N-A</u>	<u>N-A</u>	<u>N-A</u>
<u>N-A</u>	<u>N-A</u>	<u>N-A</u>

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

	You	Your spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$ <u>0</u>	\$ <u>0</u>
Are real estate taxes included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ <u>0</u>	\$ <u>0</u>
Home maintenance (repairs and upkeep)	\$ <u>0</u>	\$ <u>0</u>
Food	\$ <u>0</u>	\$ <u>0</u>
Clothing	\$ <u>0</u>	\$ <u>0</u>
Laundry and dry-cleaning	\$ <u>0</u>	\$ <u>0</u>
Medical and dental expenses	\$ <u>0</u>	\$ <u>0</u>

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ 0	\$ 0
Recreation, entertainment, newspapers, magazines, etc.	\$ 0	\$ 0
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ 0	\$ 0
Life	\$ 0	\$ 0
Health	\$ 0	\$ 0
Motor Vehicle	\$ 0	\$ 0
Other: 0	\$ 0	\$ 0
Taxes (not deducted from wages or included in mortgage payments)		
(specify): 0	\$ 0	\$ 0
Installment payments		
Motor Vehicle	\$ 0	\$ 0
Credit card(s)	\$ 0	\$ 0
Department store(s)	\$ 0	\$ 0
Other: 0	\$ 0	\$ 0
Alimony, maintenance, and support paid to others	\$ 0	\$ 0
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ 0	\$ 0
Other (specify): 0	\$ 0	\$ 0
<b>Total monthly expenses:</b>	\$ 0	\$ 0

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes ☒ No If yes, describe on an attached sheet.

10. Have you paid – or will you be paying – an attorney any money for services in connection with this case, including the completion of this form? ☐ Yes ☒ No

If yes, how much? 0

If yes, state the attorney's name, address, and telephone number:

N/A

11. Have you paid—or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes ☒ No

If yes, how much? 0

If yes, state the person's name, address, and telephone number:

N/A

12. Provide any other information that will help explain why you cannot pay the costs of this case.

**I am in a Prison, with a Prison Job, and no other income.**

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

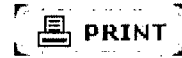
Executed on: September 6, 2024., 20 24

*9-20-24*

*Robert T. Blee*

(Signature)


# Inmate Inquiry



Inmate Reg #: 46959386  
 Inmate Name: BLAKE, ROBERT  
 Report Date: 08/28/2024  
 Report Time: 3:07:15 PM  
 Current Institution: Bastrop FCI  
 Housing Unit: BAS-A-A  
 Living Quarters: A07-711L

General Information | Account Balances | Commissary History | Commissary Restrictions | Comments

## General Information

Administrative Hold Indicator: No  
 No Power of Attorney: No  
 Never Waive NSF Fee: No  
 Max Allowed Deduction %: 100  
 PIN: 0901  
 PAC #: 535695314  
 Revalidation Date: 28th  
 FRP Participation Status: Completed  
 Arrived From: OKL  
 Transferred To:  
 Account Creation Date: 9/23/2016  
 Local Account Activation Date: 7/21/2018 3:14:43 AM  
 Sort Codes:   
 Last Account Update: 8/28/2024 1:03:21 PM  
 Account Status: Active  
 Phone Balance: \$2.00

## Pre-Release Plan Information

Target Pre-Release Account Balance: \$100.00  
 Pre-Release Deduction %: 1%  
 Income Categories to Deduct From: ☒ Payroll ☐ Outside Source Funds

## FRP Plan Information

FRP Plan Type	Expected Amount	Expected Rate
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## Account Balances

Account Balance:	\$32.80
Pre-Release Balance:	\$0.75
Debt Encumbrance:	\$0.00
SPO Encumbrance:	\$0.00
Other Encumbrances:	\$0.00
Outstanding Negotiable Instruments:	\$0.00
Administrative Hold Balance:	\$0.00
Available Balance:	\$32.05
National 6 Months Deposits:	\$1,086.38

National 6 Months Withdrawals: \$1,061.40  
Available Funds to be considered for IFRP Payments: \$636.38  
National 6 Months Avg Daily Balance: \$65.00  
Local Max. Balance - Prev. 30 Days: \$139.30  
Average Balance - Prev. 30 Days: \$88.62

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## Commissary History

### Purchases

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Validation Period Purchases: \$32.85  
YTD Purchases: \$1,558.58  
Last Sales Date: 8/28/2024 1:03:21 PM

### SPO Information

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SPO's this Month: 0  
SPO \$ this Quarter: \$0.00

### Spending Limit Info

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Spending Limit Override: No  
Weekly Revalidation: No  
Bi-Weekly Revalidation: Yes  
Spending Limit: \$180.00  
Expended Spending Limit: \$38.05  
Remaining Spending Limit: \$141.95

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## Commissary Restrictions

### Spending Limit Restrictions

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Restricted Spending Limit: \$0.00  
Restricted Expended Amount: \$0.00  
Restricted Remaining Spending Limit: \$0.00  
Restriction Start Date: N/A  
Restriction End Date: N/A

### Item Restrictions

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List Name	List Type	Start Date	End Date	Active
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## Comments

Comments:



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

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IN THE SUPREME COURT OF THE UNITED STATES

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ROBERT TIMOTHY BLAKE , PETITIONER,

V.

THE UNITED STATES OF AMERICA, RESPONDENT.

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ON PETITION FOR WRIT OF CERTIORARI  
TO THE  
UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

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ROBERT TIMOTHY BLAKE

46959380

FCI Bastrop

P.O. BOX 1010

Bastrop ,Texas 78602

Pro-Se Petitioner.

*Robert T. Blake 9-6-2024.*  
*9-25-2024*

## QUESTIONS PRESENTED FOR THE COURT'S REVIEW

1. The question presented is whether, in a habeas case, is a 60(b)(3)&(6) motion subject to additional restrictions that apply to " Second and Successive " habeas Corpus petitions ?
2. Is it proper for the District Court to Construe a 60(b) motion as a " Second and Successive " habeas Corpus petition, without presenting any evidence , that may support the Court's conclusions based upon it's Opinion only ?
3. Is it Proper for the Court of Appeals to Affirm where the District court will use it's discretion to Construe a 60(b) motion as a " Second and Successive " habeas Corpus petition, Absent any Abuse of Discretion Testing of the District Court?
4. Is it Proper for the District Court to dispose of a 60(b) motion in a habeas Case, when the defendant presents facts of an incomplete record, Record Tampering, or errors in the proceedings : Without Completely investigating the Court where the errors take place ?

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## LIST OF PARTIES

All Parties appear in the caption of the case on the cover page.

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. The Sixth Amendment to the United States Constitution provides, in pertinent part:  
" In all criminal prosecutions, the accused shall enjoy the right... to have the Assistance of Counsel for his defence."
2. The Fifth Amendment to the United States Constitution provides, in pertinent part:  
" No person shall... be deprived of life, liberty, or property, without due process of law."
3. The Fifth Amendment to the United States Constitution Provides, in pertinent part:  
" No person shall... be compelled in any criminal case to be a witness against himself."

### OPINION BELOW

1. The Opinion of the United States Court of Appeals for the Fifth Circuit will deny the petitioner for a Certificate of Appealability, to the United States District Court for the Western District of Texas.

Is attached to this petition as Appendix A.

Opinion may not yet be reported in Publications.

2. The Opinion of the United States Court of Appeals for the Fifth Circuit, that will deny this petitioner's request for reconsideration, is attached to this petition as

Appendix B.

Opinion may not yet be reported in Publications.

3. The Opinion of ,The Judicial Council for the Fifth Circuit, concerning this petitioners Complaint of Judicial Misconduct, in the District Court for the Western District of Texas, San Antonio division. Attached to this Petition as Appendix C .

This Opinion may not be reported in Publications.

### JURISDICTION

The Jurisdiction of this court is invoked under,

28 U.S.C. §1254(1).

This Petitioners Motion in the Fifth Circuit Court of Appeals Requesting Reconsideration was Denied on June 3, 2024.

(see Doc.No:.49-2 , Appendix B). The Court's Mandate issued on June 11, 2024, and the case was closed.

## TABLE OF AUTHORITIES CITED

<u>CASE</u>	<u>PAGE</u>
U.S. V. Rich, 141 F.3d 550,551 (5th Cir, 1998).....	10.& 11.
Rodriguez V. Mitchell, 252 F.3d 191 (2nd Cir. June 6,2001)....	10.
Authur V. Thomas, 739 F.3d. 611,828 (11 Cir. 2014).....	12.
Gonzalez V. Crosby, 545 U.S. 524, 162 L.Ed.2d,480,125 S.Ct.2641, No.:.04-6432, June 23, 2005.....	12.
Strickland V. Washington, 466 U.S. , 104 S.Ct. 2052,801.Ed.2d674(1984). .....	17.&18.
U.S. V. Selva, 599 F.2d 1303,1305-06 (5th Cir. 1977).....	19.

## STATUTES AND RULES

28 U.S.C. § 1254(1).....	V.
Fed.R.Civ.P. 60(b)(3) & (6).....	5,6,7,9,10, 11,12,15,18,21.
Motion 2255.	
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## STATEMENT OF THE CASE

On February 4, 2015 in the Western District of Texas, San Antonio Division, Movant Robert Timothy Blake was charged in a five count indictment. Blake was charged in count one with distribution of child pornography, in violation of 18 U.S.C. § 2252A(a)(2)and(b) ; in count two with receipt of child pornography, in violation of 18 U.S.C. § 2252A(a)(2), and in counts three through five with possession of child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B).

On January 7, 2016, a signed plea agreement was filed with the court wherein Blake pled guilty to counts one and three of the indictment. On January 7, 2016, Blake entered his guilty pleas before the Honorable District Judge Rodriguez.

On June 29, 2016, Blake was sentenced to a term of 240 months imprisonment on count one and a consecutive term of 22 months imprisonment on count three; lifetime supervised release; a \$100 special assesment on each count and Blake was ordered to pay \$9,000. in restitution.

Blake filed a direct appeal, challenging the judgment and sentencing on July 8, 2016. Blake presented on appeal that, the government breached the plea agreement at the sentencing hearing; the sentence was not reasonable; and whether the sentencing court subjected appellant's sentence to the thorough adversarial testing contemplated by Federal Sentencing Procedure. Upon review of the presented briefs, the Fifth



Circuit dismissed the appeal, due to appeal waiver. The Fifth Circuit Court of Appeals did not address any issues related to ineffective assistance of counsel, Or that Blake did not receive adequate advice and information from his Trial Attorney prior to Blake's change of Plea, that **Could** render the Plea and waiver invalid.

On September 19, 2018 Blake timely filed a Motion 2255 with the District Court in the Western District of Texas, San Antonio Texas, 5th District Court.

Blake submitted a motion 2255 for Ineffective Assistance of Counsel, with the following Grounds Raised:

**Ground One:** Trial Counsel improperly informed Movant/ Defendant that he would receive probation if he pleaded guilty.

**Ground Two:** Trial Counsel Failed to Adequately Inform Defendant of the Consequences of Accepting Plea Bargain.

**Ground Three:** Trial Counsel Failed to have any Member of the Defense Team Actually Look at the Photographs Allegedly Found on the Computer at Issue, When said Pictures were Available.

**Ground Four:** Counsel Failed to Investigate Defendant's Theory that the Images Got on His Computer by Sources Other Than Him.

**Ground Five:** Trial Counsel's Failure to Present Defendant's Witnesses at Sentencing Hearing, Even though Defendant's Witnesses were Present at the Courthouse for the Purpose of Testifying.

(Trial Counsel had Defendant's Witnesses Wait Outside of the Courtroom, so they were not Even Present in the Hearing.)

**Ground Six:** Trial Counsel's Failure to Object to the Government's Introduction of Improper Evidence at the Sentencing Hearing.

**Ground Seven:** Counsel Failed to Object to the Government's Misrepresentation of Evidence at the Sentencing Hearing.

**Ground Eight:** Counsel Failed to Adequately Explain the Federal Sentencing Guidelines to Defendant.

**Ground Nine :** Counsel Advised Defendant to Accept a Plea Deal after Defendant Informed Counsel that Portions of the Allegations were Not True.

(See Doc. No. 93 ,09/19/2018 .) (emphasis added).

On 12/21/2018 , the Government will file their Response to motion, and provide the Affidavit from Attorney Cavazos.

(See Doc. No.96 & 96-1 , 12/21/2018).

However the Defendant was not provided the Document at FCI Bastrop, as required for a Pro-Se Petitioner. Defendant will call the Court on 04/01/2019 , and discover that his Address is Not Correct with the Court, and was changed on 11/13/2018 by someone other than Defendant.(see Doc No.95),and Docket Entry on 04/01/2019.

During Blake's Motion 2255 in the District Court, there will be several brief's submitted to the District Court. Movant will provide the Court with extensive detailed testimony related to his experience with Attorney Cavazos throughout the attorney's representation.

(See Crim. Docket, No. 103, 104, 107, 112, 115.)

On 12/11/2019 the District Court will deny the motion 2255, (Doc No.118&119) Movant will Appeal, and receive a COA, and Remand for an Evidentiary Hearing.

(Case.No.19-51187. Doc.No.00515794543, 03/24/2021.)

Attorney Acosta will be appointed to represent Movant for the hearing that will ultimately take place on 02/25/2022. The hearing will reveal testimony from Attorney Cavazos, Movant Blake, Blake's Former wife (Debbie Warren), and his Uncle James Dyson. Movant's witnesses who have had full and extensive interaction with Attorney Cavazos.

The Hearing will Reveal New testimony from Attorney Cavazos, and support many and various issues that Movant has raised in His motion 2255, and Briefs.

Post Brief argument's are filed by the Attorney's, including a very clear and concise " Objection's " from Attorney Acosta. (Doc.No.197, 10/27/2022.)

The District Court will Overrule all of the defendant's Objection's, and deny the motion 2255 and COA.

Movant Blake will obtain the Transcripts of the EVIDENCE hearing that took place on 02/25/2022.(Doc.No.: 185,filed:07/12/22.)

Upon the initial inspection, Petitioner Blake will notice where a segment of testimony was not included in the transcript. Petitioner called The Defendant Attorney, David Acosta, and asked him, " if he noticed the missing testimony from the transcripts ? " Attorney Acosta stated, that he did not notice. The Attorney advised, where his appointment has been concluded, his briefs were composed based on the record as it appeared, and that there was no REDACTIONS requested, or advised of concerning the record and transcripts from the evidence hearing on 02/25/2022 , before The Magistrate Judge Farrer. The Attorney advised for petitioner to file a 60(b) motion, concerning this issue.

Petitioner Blake is concerned, that very specific testimony is Not in the Hearing transcripts, and will immediately create a Statement of Fact to recall the testimony that was missing, as he noticed (See Affidavit on 12/14/2022)(Attachment D ).

The Petitioner will also order a "COPY" of the Audio recording for the 02/25/2022 evidence Hearing, and then discover on his own where the Testimony he recalls is also missing from the Audio Recording of the Proceeding.(See Statement of Fact 11/19/23.) (attachment E ).

During this time, Petitioner Blake will file a Timely request for a COA with the Circuit Court, and challenge the District Court's Order , as Pro-se. The Issue with the Missing testimony is raised, however the Circuit Court Denied the Petition.(Case No.:22-5104, Doc.No.:00516695463, 03/30/2023.)

To be as accurate as can be, in regards to the missing testimony, Petitioner will hire a Forensic Evaluation of the audio disk the Court sent to him. ( Attachment F ).

The Professional only examined the area that was identified, and was unable to conclusively determine an edit at this one spot, as identified by the petitioner.

However the Professional did conclude:

**" However, a professional such as myself, may be able effectively conceal an edit point."**

(Attachment F), (emphasis added).

The Forensic Specialist also provided to my family, where he will need to examine the Original Recordings, and NOT a "COPY", to provide a more accurate analysis.

May this reviewing Court consider this as Evidence above, that could call the Court's actions into question, where the record was modified to Conceal testimony that is material to the Evidence Hearing, and it's Mandate, **on remand**. Please look to the District Court's own Orders concerning the Mandate;

**" The Fifth Circuit therefore vacated this Court's Order denying the § 2255 Motion only with respect to Blake's claim of ineffective assistance of counsel during plea negotiations and remanded the case to the district court for further proceedings, to include an evidentiary hearing." (emphasis Added).**

(See Court Order, Docket: 5:15-cr-00066, No., Filed on 05/18/2021).

(Attachment G ).

On 11/27/2023 , Petitioner will present to the District Court a properly placed , " Motion to Vacate a Judgement and Order Pursuant to Fed.R.Civ.P.60(b)(3)&(6). (See ECF No.: 216),

(Attachment H ).

This 60(b) Motion will only attack the defect and integrity of

the Federal Habeas proceeding. The Petitioners Motion 60(b) will NOT raise any new grounds for relief, or dispute the merits of the the case, except for an incomplete record during the Post hearing briefing period, the record upon review by the District Court, and the Record on Appeal. That the Record was Modified, and the modification is material to the Case and it's mandate at hand. Where this Defendant will experience Prejudice, due to this modification of the record. The Petitioner also petitioned the District Court for an appointment of Counsel, and a third party investigation to resolve this issue. Motions are Denied by the District Court. (See ECF. No.: 218, on 12/11/2023). (Attachment I). The District Court will Construe the Petitioners 60(b)(3)&(6) motion as a " unauthorized Second or Successive motion 2255 ", and deny a COA. The District Court will not provide any objective evidence that can allow , Or Support , this 60(b) motion to be a Motion 2255. ( Attachment I ).

The District Court will also support it's Denial on the Merit's and Credibility of the hearing on 02/25/2022. A decision that is made with the modified record, as presented. (Only Subjectively). The District Court will only provide it's own Subjective view, and analysis concerning the Petitioners Habeas Case, MINUS the missing testimony. Furthermore, the District Court is Not concerned or intrested in investigating the Missing Testimony, as if it can not be ever, a conceivable possibility. NO REVIEW: The District Court did not attend to the entire record, The Video(zoom)record, Confirm with the Attorney's, or ask the Magistrate Judge of his actions or Opinion, as to if Judge Farrer had the Testimony Redacted or STRUCK from the record.

The District Court will also demonstrate the Prejudicial effect to this Defendant in it's 12/11/2023, denial order, by it's statement below:

**"... to reopen the habeas proceedings to allow the appellate court to review his habeas claims-which were decided against him on the merits- anew, with the benifit of the missing Testimony."**

(ECF. No.:218, Pg,4-5).(emphasis added).(Attcahment I).

The above by the District Court is in Contradiction to the mandate of the Evidence Hearing, and informs the record where, important decisions are made without the consideration of the "Defendant's understanding of the FACTS within the Plea document", at the time his Attorney advised him to Plea Guilty, at which this defendant refused.

Also the District Court wants to Cure it's error in it's discretion by presenting a no-win narrative of it's own subjective view, without considering this critical part of this Case, and the impact it can have, where Blake was "NOT properly advised by his Attorney during the Plea Negotiations. "

The District Court has no intent to find fraud, or the appearace of abuse or mistake in it's Division. It is Easier to call the Petitioner mistaken, or desperate to make up a story, he can not prove from a Prison Cell. ( observation by Petitioner ) May this Court on Review, find where this petitioner has, at the best of his ability, Presented a Proper 60(b) Motion, regarding this issue. Also may this Court Notice the Fifth Circuit Court's lack of attention regarding this Issue at hand, as a Miscarrage of Justice.

## REASONS FOR GRANTING THE WRIT

The Court Should grant Certiorari to resolve whether the District Court shall have full discretion to construe a 60(b) motion as a "Second and Successive" Habeas Corpus motion, without presenting any evidence, that shows where the Petitioner has added any new grounds for relief, Or has failed to attack the proceedings in his Habeas Case. And,

Is it within the Court's Discretion to not allow any meaningful review concerning , Claims of Error, Fraud, or Mistake, that are material to the Habeas Case. Issues that may disturb the Court's findings for it's denial, where the Defendant will suffer Prejudice from the Errors of the Proceedings.

1. This Case is presented concerning the Mandate upon remand, where the Record was Modified, and Important testimony , that is related to the Mandate;is missing from the record.

The Testimony was NOT redacted, or STRUCK by the Court. It is Excised with purpose. The Only reason for the 60(b) motion.

2. This Court is in the best position to consider this fact, and decide where justice may have suffered from this action of missing testimony.
3. This Petitioner has very carefully, at the best of his ability, Presented a 60(b)(3)&(6) Motion to the District Court, on this issue only. The Court's have denied all option's of review available to the Defendant. Providing an extremely formidable burden upon the defendant, that is prejudicial and extreme.



**4. Rule 60(b) provides in Relevant part:**

" On motion and upon such terms as are just, the Court may relieve a party... for the following reasons:....  
(3) fraud..., Misrepresentation, or misconduct of an adverse party,...." (emphasis in Original).

Court's have held: "We must decide whether a Rule 60(b) motion filed by a habeas petitioner is a "Habeas Corpus application" as the Statute uses that term.

**The 5th Circuit Holding:**

" Court's may treat motions that Federal Prisoners purportedly bring under Rule 60(b), but which essentially seek to set aside their convictions on Constitutional Grounds,as 2255 motions..."  
"... If a second petition making new alligations asserted in the motion would be dismissed as an abuse of the writ, then the motion to remand should be Denied."

AND,

" The Decision to grant or deny relief under Fed.R.Civ.P.60(b) lies within the sound discretion of the district Court and will be reversed only for abuse of that discretion."

U.S. V. Rich,141 F.3d 550,551(5th Cir, 1998).

**The 2nd Circuit Holding:**

" The second Circuit has determined that a Motion under Rule 60(b) to vacate a judgement denying habeas is not a second or successive habeas petition , and should therefore be treated as any other motion under Rule 60(b) ."

Rodriguez V. Mitchell, 252 F.3d 191 (2nd Cir June 6,2001).

5. This Petitioner here has experienced a burden, that is predudicial, and is also the cause of his 60(b) motion in this case. Petitioner was careful to only present the Error of the missing Testimony from the record in his 60(b)(3)&(6) motion, However the District Court will USE it's discretion to construe the petitioner's 60(b) motion as a second 2255 motion, and require a COA to proceed upon appeal.

6. The Fifth Circuit Court of Appeals will deny a COA to the petitioner, and affirm the District Court without conducting any analysis or consideration, that the District Court may have "Abused it's Discretion".

**"The decision to grant or deny relief under Fed.R.Civ.P.60(b) lies within the sound discretion of the district court and will be reversed only for abuse of that discretion."**

**U.S. V. Rich, 1414 F.3d 550,551 (5th Cir.1998).**

Further more, the Circuit Court will not make any findings to show how the Defendants 60(b) motion is a "Second and Successive motion 2255", that can support the District Court and it's Discretion. Instead the Circuit Court seems to rely upon the District Court's assumptions, and Subjective Order to deny the 60(b) motion, and an alternative finding with No evidence, or support from the record.

May this Reviewing Court find this to be an abuse of discretion, and a violation of this petitioners Constitutional Rights.

Where the District Court, and Circuit Court has, So far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower Court, as to call for an exercise of this Courts Supervisory Power.

7. As previously presented, This Petitioner has noticed where the testimony in the Record "will NOT appear", It vanished from the written record, and also from the AUDIO record. Petitioners concerns are his alone, however he would expect the District Court, and the Circuit Court, as well as the "Judicial Council for the Fifth Circuit," to share this concern.

May this Reviewing Court please notice this Petitioners concern and serious resolve concerning this matter, and the District Courts "Contrary assertions", and efforts to the Nullification of this issue.

This Petitioner asserts that the Lower Court's have no reason to find out ,where an error has been made, Or that an officer of the Court could allow the Record to be modified in favor of the Government's Attorney.

8. Petitioner does expect his position to be considered a serious issue, where the Court's, if innocent of error, will want to fully explore, and exhaust all imaginable areas to prove this defendant wrong. The District Court has NOT done this. Instead it will give the testimony (missing), a low value, and decide it has no impact on the outcome of the habeas Case. The District Court will NOT even inquire into the Magistrate, Judge Farrer, to establish his Opinion of the missing testimony, that transpire on his watch. The Magistrate Judge has NOT provided whether he ordered for any modification to the Record, Or if he can recall the interaction between the AUSA, and the Petitioner at the Evidence Hearing on 02/25/2022.

" The District Court was not evaluated for an abuse of Discretion to deny the 60(b) motion. The 5th Circuit did not consider the district court has or has not made a clear error of judgement, Or has applied the wrong legal Standard.

Author V. Thomas, 739 F.3d. 611,828 (11 th Cir. 2014).

And,

" When No Claim' is presented within the meaning of (2) § 2244(b), there is no basis for contending that Rule 60(b) motion should be treated like a habeas corpus application." (see headnotes, Habeas Corpus § 113).

Gonzalez V. Crosby, 545 US 524, 162 L.Ed.2d.480, 125 S.Ct.2641  
No.:04-6432, June 23, 2005.

### THE EFFECT

1. In an Abundance of caution this Petitioner wishes to provide this reviewing Court with an understanding, as to why the missing testimony from the record, is not harmless to the Defendant, and his habeas Case.
2. The Mandate on remand, that is the cause of the Evidence Hearing on 02/25/2022, before the Magistrate Judge will be issued to determine the defendants claim of Ineffective assistance of Counsel, " During the Plea Negoations ".  
(Attachment G, Pg.1).
3. The Missing testimony from the record, is in fact material to this mandate. The AUSA will ask a question of the defendant to recall his interaction with the FBI agents during a Search Warrant. The Defendant will clearly and Seriously respond to the Question presented to him, and inform the Court where he did inform his Attorney (Cavazos), that the Plea Factual Basis was composed of the FBI agent's Report, of this interaction with the defendant in his home. The Petitioner will provide where the FBI facts are not correct, and are false. The FBI presented information of an interview that was not discussed, and their version of the interview is not accurate.  
This dispute of false information was reported to the Defendant's attorney (Cavazos), when he presented the Plea Agreement, which the Defendant refused to accept, with the misleading and False information. (See Petitioners Affidavit/ Attachment D).

4. The Missing testimony, that is the subject of the 60(b) motion is important to this Petitioner, because it will show his understanding of the Facts in his Case at the time his Attorney Presented the Plea Agreement to him. Where this Understand was not corrected, or resolved in any meaningful way that the defendant could understand, Or agree with the false information, without reluctance and Concern. The Trial Attorney Never resolved the dispute with the Plea Facts, that transpire from the FBI agent's search warrant interview, as their OWN version, and narrative , with NO dispute. Even after the Defendant informed the Attorney of the FBI agents Errors, as Not True or Accurate. The District Court has Not evaluated this issue. The issue that is presented in the initial 2255 Motion, as **Ground Nine (9)**.
5. The Ground Nine (9), within the initial 2255 motion is Material to the Mandate on Remand for the Evidetirary Hearing on 02/25/2022, and this hearing will present Testimony Evidence from both this Defendant and his Trial Attorney (Cavazos). However the Magistrate and the District court will not review the new testimony for it's relationship to Ground Nine (9), and the Remand Mandate. The District Court has previously considered Ground Nine (9). in it's First Denial, (ECF 118), Prior to the Remand, and has considered it to be final and over. The New testimony from the 02/25/2022 hearing does call the Ground Nine (9) into question, and the District Court will not reconsider it's previous finding's in the First Denial(ECF 118).

6. The New Testimony from the Evidentrary hearing on 02/25/2022, is the Subject of the Petitioners 60(b)(3)&(6) Motion, And this alligation presented by this petitioner is also supported by the rest of the Transcripts, that were NOT edited,

As Follows : Blake on direct

(Concerning Attorney Cavazos)"A. He came the first time with the plea agreement. And I told him what was not true and what was -- I didn't agree with."

(ECF 185, Pg.26, at 5). (emphasis added).

Q..."you informed him that you were in disagreement with the alligations in the factual basis... " (by Attorney Acosta).  
(id. Pg.27, at 12).

"Q. okay. Now, you mentioned that you had some disagreements with the contents of the Plea agreement ?

A. Yes. "

(id. Pg.29, at 12).

"... And I told him,well,what's written there makes it sound like I went purposefully to obtain child pornography."

(1d. Pg.34, at 19).(SEE id. Pg. 34).

(concerning the AUSA) Blake on cross

"Q. So the factual basis in the plea agreement is true and correct? That's what you agreed to?"

A. That's what the document says.

Q. And is that the case today, in your opinion?

A. In my opinion, no.

Q. So you lied when you signed the plea agreement ?

No. It was my opinion. I didn't agree with the way the wording was. It made me look like I was seeking and purposefully interacting with these individuals for that sole purpose..."

(id. Pg.58-59, at 23 - 09).

Jamie Cavazos Direct

"Q. Did he indicate to you that he not guilty of Distributing child Pornography ?

A. I dont know that he did -- that he used those words, but we discussed it... , ...,that he had admitted to in his

Statements to the agents..." (within the attorney's answer he will only rely on the Agent's reports, un-verified, with no specific evidence). (id. Pg.152, at 15-24).

"A. I don't know if I asked him to specifically tell me that he was Guilty... I had explained to him the evidence that the government had,..."

(Attorney will not provide any specifics on any evidence).

(id. Pg.153, at2-7).

Jamie Cavazos Cross

" Q. ,... You mentioned that there was a revision that was made to the plea agreement ?

A. Yes. It was -- it was language I think in the factual basis that I had issues with.

Q. And in this particular case you did not recall whether that was after a discussion with Mr. Blake?

A. Im sorry. I don't recall the timing,..."

(id. Pg.180, at 20-24.)

7. The above interactions at the Evidence hearing will present where the Attorney was informed by the Petitioner, of his Understanding and concerns with the Plea Factual Basis, and his reluctance to agree with information from the FBI interview, that was not true, or tested. The Attorney did not show or explain any evidence with the defendant, he only stated, "that there is evidence".
8. This information is important to this Petition ,because it shows how the District court has decided to Not apply this issue, as a moment of Ineffective Assistance of Counsel" in this Habeus Case, or consider these Testimony facts Related to the Hearing Mandate, Or most importantly, The Missing Testimony. The subject of this Petition.
9. The missing testimony is supportive to the Petitioners 2255 motion, where his Attorney was advised the Plea Facts were not true and accurate, and the attorneys advise fot the Defendant to plea guilty to this information, without any testing, verification, or explaining the Facts with the Laws with the Defendant. This is A Strickland Standard for effective Assistance During Plea Negoations.

"To establish Counsel's Ineffective Assistance under Strickland a petitioner must demonstrate that his Attorney's Performance, (1) "fell below an objective Standard of Reasonableness," and (2) that counsel's defecient performance prejudiced the defendant." at 688,692

" The benchmark for judging any claim of ineffectiveness must be whether counsels conduct So undermined the proper function of the adversarial process that the trial cannot be relied on as having produced a just result." at.686.

Strickland V. Washington,466U.S.,104 S.Ct.2052,801.Ed.2d 674(1984).



10. The Attorney's advice to the Defendant during Plea Negotiations, is a focus of the Remand Mandate, and the missing testimony from the record would be important to this issue for various reasons, to include: A complete Record during the Post Hearing Brief's, A complete Record on Appeal, and support of the Ground Nine (9) in the 2255 motion.

**" Reviewing Courts must consider the Totality of the evidence before the finder of fact in assessing whether the result would likely have been different absent the alleged errors of counsel."**

**Strickland V. Washington 466 U.S. 668 at 695-96,(1984).**

And,

Considering the Remand Mandate, and the New testimony from 02/25/2022, the District Court should of reviewed the Ground Nine (9), and provided to it's denial. Instead the District Court will Decide the results of the 02/25/22 hearing anew, with the benifit of the Missing Testimony, As Stated:

**" ...Blake's present motion is to reopen the habeas proceedings to allow the appellate court to review his habeas claims- which were decided against him on the merits - Anew, with the benifit of the missing testimony."**

(See, Court Denial of 60(b), ECF 218, Pg.5, 12/11/23)  
(Attachment I).

The above is the District Court's Subjective Opinion, and may demonstrate where the Court has NO concern that the Record was Deleted, at a specific area , with NO notice, Or Trace that can be detected. The Concern of this Petitioner is; Someone with Access to the Court's Records and Document's , Has put effort

into removing the Testimony and exchange between the Defendant, and the AUSA, During Cross Examination on 02/25/2022. Only an officer of the Court should be able to approve such an action. This modification must be requested and approved. It was Not raised for the Court.

11. The reason for this petition of Certiorari is to ask this Question. Is it ok for the record to be deleted with no trace, or notification? Is this a perversion of Justice ? AND, If the Missing testimony is Not important, can a Jurist of reason, include the missing testimony and find it harmless to the Defendant here ? (See Attachment D). Has the District Court Abused it's Discretion to decide where missing testimony is not Prejudicial, or meaningful in this case?
12. There should be a concern for the Court to administer fair and un-bias judgement, and an alligation as presented here should not be dismissed as harmless, regardless of it's value. To allow the Record to be adjusted to suit the goal of the AUSA, as to defeat the Habeas Action is at a concern here for both sides. The Fact that the Deletion even happened is very concerning to this Defendant. The Excised Testimony must be meaningful to the case in some way, Otherwise, To not disturb the Testimony would appear harmless to the Government's position in this case. If Harmless , why was it done ? The Defendant appears to have suffered Prejudice as A result: See: U.S. V. Selva, 599 F.2d 1303,1305-06(5th Cir.1977), Court Reporter Act 28 U.S.C. § 753.

13. May this Court please consider this Petitioners view, and statement of fact. (Attachment D).

This Defendant was keen at the 02/25/2022 hearing to have any oppertunity to explain to the Court, and the Record, under-Oath, to provide where the FBI agent's reports were not accurate or True. The Interview at the search warrant was very different than the FBI agents Facts. The Defendant did not waive his right's at this interview, and the FBI refused to allow him to call his Attorney on three or more times during the interview.

14. The Defendant's Attorney was clearly informed, that the factual Basis in the Plea Agreement was the product of the FBI interview with the Defendant, in Custody, WITHOUT Miranda. The Attorney was advised the interview was NOT recorded, and the FBI agents facts are not accurate or true. The FBI added statements that were never made, and added facts that were unknown to this defendant. The Interview was full of fabrication, and Subjective Speculation, that the defendant was un-aware of. The agent's did not ask the Questions they report that they did.

15. The Attorney (Cavazos) still insisted for ME to take the Plea, because he was going to dispute the facts, and show the Court the errors. This Never happened. The Attorney Advice was FLAWED. That is why This Petitioner was extremely alert and serious at an oppertunity to inform the AUSA, and the Court at the 02/25/22 hearing, the way he did. (See, Statement of Fact ,12/14/2022). (Attachment D). I was excited of this Oppertunity: Unforgettable . Petitioner was very concerned not to find the Testimony in the Transcripts, and then worried to find the AUDIO Deleted.

### CONCLUSION

I am Respectfully requesting this Court to hear my Appeal, and grant me it's Review of this Issue. The District Court and the Circuit Court have made their determinations, as reflected by the record.

May this Court notice where the Lower Court's have not provided a Complete, Or fair Oppertunity concerning this Case. Also may this Court allow for the consideration of the missing Testimony, in the Context it could support. "The Attorney's Performance During Plea Negoations. "

Petitioner is also concerned that the District Court has found it's self deciding upon issues effected by the Missing Testimony, where the Court has not allowed the value of the case to be resolved in favor of the Defendant, despite his attorney's ability to provide to the record, that he gave the best Advice concerning the Plea Facts, and the evidence in this case, during Plea Negoations. A Subject related to the Mandate on Remand. Most Importantly, concerning this Petition, and it's Purpose, the Court can resolve the issue of the 60(b) Motion, and how it was Construed to be a Second 2255 Motion, and the review of this issue by the Fifth Circuit Court of Appeals, and the Judicial Council for the Fifth Circuit.

That this Petitioner has suffered Prejudice, and a Violation of His Constitutional Rights.

This petition for a writ of certiorari Should be Granted.

Respectfully.

This Petitioner wishes to alert this court to his Pleadings in the fifth Circuit Court of Appeals, concerning a Petition to Obtain permission to File a Second and Successive 2255 Motion with the District Court. This Application is now Pending for Case , No:.24-50530 , Filed on August 21, 2024.

Within this Application the Court will find Evidence that has been recently obtained by this Defendant VIA, FOIA, Evidence that will show where the FBI provided false information to the Record.

Where the Search Warrant was not properly approved, and it will contain false information, Proven to be False.

That the Government did withhold Discovery and Evidence from the defendant, that constitutes a Brady Violation.

This showing of New evidence may support that the Factual Basis in the Plea Facts are not true, as Presented.

May this Court also Notice this Petitioners Pleadings concerning the Bias of the District Court. ( Appear in the COA request for this 60(b) action).

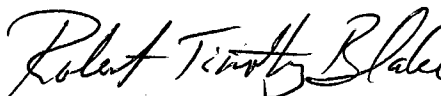
Thank you for this Consideration of My Petition Here for a Writ Of Certiorari.

Dated: September 6, 2024.

9/25/2024

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

Respectfully Submitted,



Robert Timothy Blake  
46959380 /Pro-Se.

I do hearby Declaer and certify , that the above is correct and true, as I understand, at the best of my ability. Under the Penalty of Perjury. Robert Timothy Blake: Robert Timothy Blake

**APPENDIX ATTACHMENT**

**A**

**ROBERT BLAKE 46959380**

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

May 3, 2024

Lyle W. Cayce  
Clerk

No. 24-50003

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

ORDER:

Robert Timothy Blake, federal prisoner # 46959-380, moves this court for a certificate of appealability (COA) to appeal the district court's dismissal of his Federal Rule of Civil Procedure 60(b) motion as an unauthorized successive 28 U.S.C. § 2255 motion and, alternatively, on the merits. Blake contends that his Rule 60(b) motion, which raised a claim that the evidentiary hearing transcript in his § 2255 proceedings had been modified to exclude significant portions of his testimony, was not a successive motion since it challenged a defect in the integrity of the federal habeas proceedings.

No. 24-50003

5-3-24  
A-2

To obtain a COA, Blake must make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). When a district court’s denial of relief is based on procedural grounds, a COA may not issue unless the prisoner shows that “jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Id.*

Blake has not made the requisite showing. *See id.* We do not consider his newly raised arguments that the district court was biased and conspired with others to modify the record. *See Black v. Davis*, 902 F.3d 541, 545 (5th Cir. 2018). Accordingly, Blake’s request for a COA is DENIED. His motions to supplement his COA brief, for the appointment of counsel, and to proceed in forma pauperis on appeal are also DENIED.

← ERROR

/s/ Jennifer W. Elrod  
JENNIFER WALKER ELROD  
United States Circuit Judge



5-30-23

United States Court of Appeals  
for the Fifth Circuit

Appendix  
A A-3

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

5-20-22  
A-4

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, <sup>\*</sup>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).

Notice  
← ERROR

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

**APPENDIX ATTACHMENT**

**B**

**ROBERT BLAKE 46959380**

B

United States Court of Appeals  
for the Fifth Circuit

\_\_\_\_\_  
No. 24-50003  
\_\_\_\_\_

United States Court of Appeals  
Fifth Circuit

**FILED**

June 3, 2024

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

ROBERT TIMOTHY BLAKE, *also known as* ROBERT BLAKE, *also known as* RODGER T. BLAKE,

*Defendant—Appellant.*

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

UNPUBLISHED ORDER

Before ELROD, HAYNES, and DOUGLAS, *Circuit Judges.*

PER CURIAM:

A member of this panel previously DENIED a certificate of appealability, motion to proceed in forma pauperis, motion to appoint counsel and leave to file a supplement to the motion for a certificate of appealability. The panel has considered Appellant's motion for reconsideration.

IT IS ORDERED that the motion is DENIED.

*United States Court of Appeals*

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE,  
Suite 115  
NEW ORLEANS, LA 70130

June 27, 2024

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

No. 24-50003      USA v. Blake  
USDC No. 5:18-CV-994

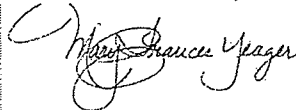
Dear Mr. Blake,

Per your recent inquiry, please be advised that the motion for reconsideration was filed on May 16, 2024, and the Court denied same on June 3, 2024.

The Court's mandate issued on June 11, 2024, and the case is closed.

Sincerely,

LYLE W. CAYCE, Clerk



By:  
Mary Frances Yeager, Deputy Clerk  
504-310-7686

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