IN THE

SUPREME COURT OF THE UNITED STATES

no.

Jackie Ray Roller

Pro Se, Petitioner

vs

Al Burruss State Prison, Warden

Respondent

Petition for Writ of Certiorari

to the United States Court of Appeals

for the Eleventh Circuit

Jackie Ray Roller, Pro Se
Burruss CTC
P.O. Box 5849
Forsyth, GA 31029

478-994-7511

QUESTIONS PRESENTED

1. Does the Eleventh Circuit Court of Appeals' refusal to grant a certificate of appealability (COA) and its determination that the petitioners' in forma pauperis (IFP) appeal is frivolous – a decision denying leave to proceed on appeal of the district court's dismissal of his Rule 60(b)(4)(6) (FRCP motion(s) for relief from resentence judgement to reopen the 'first' habeas corpus resentence petition the court ruled the (COA) is unnecessary in violation of the constitution in light of conflicting circuit court decisions. Gonzales v Crosby, 366 F3D 1253, 1263 (CA112004), Reid v Angelone, 369 F3D 363, 369 N2 (CA42004), Kellogg v Strack, 269 F3D 100, 103 (CA22001), Rutledge v United States, 230 F3D 1041, 1046-1047 (CA72000), Morris v Horn, 187 F3D 333, 336 (CA31999), Langford v Day, 134 F3D 1381, 1382 (CA91998), Zeitvogel v Bowersox, 103 F3D 56, 57, (COA81996) and other conflicting circuit court decisions Dunn v Cockrell, 302 F3D 491, 492 (CA52002), United States v Winkles, 795 F3D 1134 (CA92015). Petitioner's Rule 60(b)(4)(6) motion(s) for relief from resentence judgement to reopen the 'first' habeas corpus resentence petition is 'not' a second or successive habeas petition in which the district court abused its discretion denying his motions for relief, Boyd v Smith Case No. 03-CIV, 5401 JSR, AJP, 2004 WL 2915243 AT 13* S.D.N.Y. December 17, 2004, see 28 USC § 2253(c)(1); F.R.A.P. Rule 22 (a)(b)(1)(2) ?

QUESTIONS PRESENTED

2. Does the imposition of consecutive re-sentences under the "unconstitutional" and "wholly irrational" state sentencing statute consecutive provisions under OCGA § 16-11-106(b)(5) when applied to petitioners' firearm possession case so as to require that a five (5) year resentence term to be served to run consecutively in confinement to a life imprisonment resentence lacking a "termination end date" violate constitutional principles, including the separation of powers doctrine of the Georgia Constitution and the prohibition against imposing "unconstitutionally void firearm resentences" as cruel and unusual punishments under the 8th and 14th amendments in light of court precedents in Busch v State, 271 GA 591, 593 (GA 1999), Braithwaite v State 275 GA 884, 889 (GA 2002), Humphrey v State, 297 GA 349, 351 (GA 2015). Petitioner can challenge the constitutionality of the state sentencing statute consecutive provisions of OCGA § 16-11-106(b)(5) at any time due to the state trial court can correct a void resentence of petitioner's case, and given the fundamental great public importance of ensuring the state sentencing schemes do not render imprisonment "unexecutable"? See Ritter v Smith, 811 F2D 1398, 1402-1406 (CA111987), Gonzales v Crosby (545 US 524 (2005)), A F.R.C.P. rule 60(b)(4)(6) motion[s] for relief from resentence judgement is "not" a second or successive habeas petition Rooney v State, 287 GA 1-6 (GA2010)?

PARTIES

The petitioner is Jackie Ray Roller, a prisoner at Al Burruss State Prison, in Forsyth Georgia. The respondent is Warden at Al Burruss State Prison, Meosha McMillan.

Jackie Ray Roller, Pro Se, Petitioner v Wendy Thompson, Warden No. 1:05-CV-0465 SEG, US District Court for the Northern District of Georgia. Judgement entered on May 10, 2024.

Jackie Ray Roller, Appellant v Al Burruss State Prison, Warden, Appellees, No. 24-11762-D, US Court of Appeals for the Eleventh Circuit. Judgement entered on February 20, 2025.

TABLE OF CONTENTS

INDEX TO APPENDICES

Appendix "A" – United States Court of Appeals, Eleventh Circuit, order dated January 8, 2025. Roller v Al Burruss State Prison, Warden. Case No. 24-11762-D

Appendix "B" – United States Court of Appeals, Eleventh Circuit, order dated February 20, 2025. Roller v Al Burruss State Prison, Warden. Case No. 24-11762-D

Appendix "C" – United States District Court, Northern District of Georgia, order dated May 10, 2024. Roller v Al Burruss State Prison, Warden. Case No. 1:05-CV-0465 SEG.

TABLE OF AUTHORITIES

STATUTES – RULES – CONSTITUTIONS

OPINIONS BELOW

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgement below.

The decisions of the United States Court of Appeals, Eleventh Circuit is unreported. A copy of the January 8, 2025 order is attached as Appendix "A" to this petition, Case No 24-11762.

The decision of the United States Court of Appeals, Eleventh Circuit is unreported. A copy of the February 20, 2025 order is attached as Appendix "B" to this petition, Case No 24-11762.

The decision of the United States District Court, for the Northern District of Georgia is unreported. A copy of the May 10, 2024 order is attached as Appendix "C" to this petition, Case No 1:05-CV-0465 SEG.

JURISDICTION

This case raises a question of interpretation of the cruel and unusual punishment clause of the Eighth Amendment and the due process clauses and equal protection clauses of the Fourteenth Amendment, and a separation of powers constitutional authority of the Georgia Constitution, Article IV, Section II, Paragraphs II(a), III.

The District Court had jurisdiction under the federal habeas corpus statute 28 USC § 2254 and Rule 60(b)(4)(6) Federal Rules of Civil Procedures.

The Court of Appeals had jurisdiction under 28 USC § 1291, 28 USC § 2253(c)(1).

The judgement of the United States Court of Appeals, Eleventh Circuit was entered on January 8, 2025. See Appendix "A".

The Court of Appeals, Eleventh Circuit ruled an order denying reconsideration of the judgement was entered on February 20, 2025. See Appendix "B".

The United States District Court denied petitioner's rule 60(b)(4)(6) motion[s] for relief from resentence judgement in an order a judgement was entered on May 10, 2024. See Appendix "C". Jurisdiction is conferred by 28 USC § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS

Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted

Amendment XIV

Section I – all persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges 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 laws.

Rule 60(b)(4) Federal Rules of Civil Procedure. "The judgement is void"
Rule 60(b)(6) Federal Rules of Civil Procedure. "Any other reason that justifies relief".
Rule 22 (a)(b)(1)(2) Federal Rules Appellate Procedure Notice of Appeal- (COA)

28 USC § 1746 Federal Perjury Statute

28 USC § 1915(e)(2)(B)(i) In Forma Pauperis Statute

28 USC § 2253 Federal Appeal Statute

28 USC § 2254 Federal Habeas Corpus Statute for State Prisoners

OCGA § 16-11-106(b)(5) State of Georgia Possession of Firearm Statute and Sentence

STATEMENT OF THE CASE

Petitioner Jackie Ray Roller was convicted on December 11, 1991 of Felony Murder and Possession of a Firearm During the Commission of a Crime. He was sentenced to life imprisonment on the Felony Murder charge and a consecutive five (5) years on the Possession. The Supreme Court of Georgia affirmed his convictions and sentences in Roller v State, 453 SE2D 740 (GA 1995).

On May 23, 2003, Petitioner was resentenced by the state trial court to life imprisonment for Felony Murder and five (5) years to be served to run consecutively to the life resentence. The malice murder sentences and possession of a firearm by a convicted felon sentences the state trial court entered nolle prosequi. The court-appointed resentence counsel, Billy Joe Dixon, refused to file a timely notice of appeal requested by the petitioner. The petitioner filed an out-of-time appeal to raise resentence grounds in which the Supreme Court of Georgia denied in Roller v State, Case No S04A0880 order March 7, 2004.

On February 17, 2005, the petitioner filed his "first" federal habeas corpus resentence petition in the United States District Court, NDGA in Roller v Thompson, Civil Action No 1:05-CV-0465 SEG. On March 23, 2006, the Federal District Court denied petitioner's first habeas corpus resentence petition in which he never appealed without service of the order lost in prison mail.

On September 13, 2023, petitioner filed a motion[s] for relief from the resentence judgement pursuant to Rule 60(b)(4)(6) Federal Rules of Civil Procedures with amendments on October 18, 2023; November 24, 2023; December 6, 2023; and February 22, 2024, with motions to reopen his "first" federal habeas corpus petition doc 27, 30, 32, 33, 35, 36, 39 in Roller v Thompson, Civil Action No 1:05-CV-0465 SEG. On May 10, 2024, the District Court denied petitioner's motion[s] for relief from resentence, doc 41, 45, judgement. Petition filed a timely notice of appeal, doc 41.

On June 13, 2024, the petitioner filed with the United States Court of Appeals, Eleventh Circuit, in Roller v Al Burruss State Prison Warden, Case No 24-11762-D, a petition for certificate of appealability and motion for permission to appeal in forma pauperis and affidavit.

On January 8, 2025 and February 20, 2025, the Court of Appeals, Eleventh Circuit, denied his appeals and reconsideration appeal is frivolous and ruled the petition for certificate of appealability (COA) as unnecessary in Roller v Al Burruss State Prison Warden, Case No 24-11762-D.

REASONS FOR GRANTING THE PETITION

A. CONFLICTS WITH DECISIONS OF OTHER COURTS

The holdings of the courts including the Eleventh Circuit that held a petitioner is required to file a petition for a certificate of appealability (COA) pursuant to 28 USC § 2253(a)(c)(1)(A)(2) in a habeas corpus proceeding "...unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from ~ (a) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a state court;...a certificate of appealability under paragraph (1) may issue only if the applicant has made a substantial showing of the denial of a constitutional right."), in order to appeal the District Courts dismissal of his Rule 60(b)(4)(6) Federal Rules of Civil Procedures which states in part at "(4) the judgement is void", "(6) any other reason that justifies relief which is timely filed".

The Eleventh Circuit Court of Appeals' refusal to grant the petitioner's petition for certificate of appealability (COA) and its determination that his appeal is frivolous, a decision denying leave to proceed on appeal in forma pauperis to appeal the dismissal of the Rule 60(b)(4)(6) motion[s] for relief from resentence judgement to reopen the "first" resentence federal habeas corpus petition by the Eleventh Circuit's misapplication of the appropriate standard of review ruling a COA is "unnecessary" – see Order, January 8, 2025, and Order for Reconsideration February 20, 2025.

The Eleventh Circuit Court of Appeals ruling in this case misapplied the appropriate standard of review and the decision is directly contrary to the holdings of all the other circuit courts to include Gonzales v Crosby, 366 F3D 1253, 1263 (CA112004), "The Gonzales panel took that holding one step further, concluding that a certificate of appealability is required before there can be an appeal of any Rule 60(b) motion, even

a true one...we agree with the Gonzales panel that a certificate of appealability is required for the appeal of any denial of a Rule 60(b) motion for relief from a judgement in a 2254 or 2255 proceeding". Rodriguez Pere, 324 F3d 66-68 CA1 2003; Rodriguez Mitchell, 252 F3D 191, 198 (2nd Cir. 2001)

See Kellogg v Strack, 269 F3D 100, 103 (CA22001), Rutledge v United States, 230 F3D 1041, 1046-1047 (CA72000), Jackson v Crosby, 437 F3D 1290, 1292 (CA11 2006), Morris v Horn, 187 F3D 333, 336 (CA31999), Langford v Day, 134 F3D 1381, 1382 (CA91998), Zeitvogel v Bowersox, 103 F3D 56, 57, (COA81996) and other conflicting circuit court decisions Dunn v Cockrell, 302 F3D 491, 492 (CA52002), United State v Winkles, 795 F3D 1134 (9th Cir 2015) states in part, the policy underlying the COA requirement is to "prevent frivolous appeals from delaying the state's ability to impose sentences, including death sentences." Barefoot v Estelle, 463 US 880, 892, 103 S. Ct. 3383, a party to seek relief from a final judgement and requests re-opening of his case, under a limited set of circumstances." Jones v Ryan, 733 F3D 825, 833 (9th Cir 2013) quoting Gonzales v Crosby, 545 US 524, 528, 125 S. Ct. 2641, 162 (2005) An order denying a Rule 60(b) motion is indisputably a final, appealable order. In light of this fact and the policy just described, all circuits but the Fifth have concluded that a COA is required to appeal an order denying a Rule 60(b) motion in a habeas corpus proceeding. West v Schneiter, 485 F3D 393, 394 (7th Cir 2007), United States v Hardin, 481 F3D 924, 926 (6th Cir 2007), Spitznas v Boone, 464 F3D 1213, 1218 (10th Cir 2006), United States v Lambros, 404 F3D 1034, 1036 (8th Cir 2005), United States v Vargas, 393 F3D 172, 174-75 (DC Cir 2004), Reid v Angelone, 369 F3D 363, 369 (4th Cir 2004). Additionally, the Fifth circuit has sharply limited the circumstances where a COA is not required "only when the purpose of the Rule 60(b) motion is to reinstate appellate jurisdiction over the original denial of habeas relief. Dunn v Cockrell, 302 F3D 491, 492 (5th Cir 2002), Dunn filed both a timely notice of appeal and a motion for COA. As this case presents only Dunn's appeal from the denial of his Rule 60(b) motion and not an appeal from the merits of his habeas petition, no certificate of appealability is required at this time.

The Petitioner requests the Court to grant the Petition for a Writ of Certiorari to resolve the conflicts between the circuit courts that a Certificate of Appealability (COA) is required pursuant to 28 USC § 2253(c)(1)(A)(2) to appeal the dismissal of the District Court's order May 10, 2024 denying his motion[s] for relief from resentence judgement pursuant to Rule 60(b)(4)(6) Federal Rules of Civil Procedure.

Petitioner sought appellate review, in doing so he submitted a timely appeal along with a petition for a certificate of appealability under 28 USC § 2253(c)(1)(A). The Eleventh Circuit, however, determined that petitioner's appeal was frivolous and declined to require a certificate of appealability denying his leave to proceed in forma pauperis. Petitioner contends that the Eleventh Circuit's decision is at odds with both the clear precedent set by the Supreme Court in Gonzales v Crosby, 545 US 524, 528 (2008) which recognizes the necessity for proper appellate review and the (COA) requirement, and conflicting decisions from other circuits. Dunn at 492 and Winkles at 1143. Petitioner further asserts that the Eleventh Circuit employed an erroneous standard of review in assessing the frivolousness of his appeal and the need for a (COA), thereby infringing his constitutional rights and imperiling the boarder framework of habeas corpus jurisprudence.

By denying the (COA) as unnecessary, the Eleventh Circuit has effectively departed from these precedents. The Fifth Circuit decision in Dunn v Cockrell, 302 F3D 491, 492 (5th Cir 2002) underscores the principle that an appellate court must carefully scrutinize claims that an appeal is frivolous, especially in the context of post-resentencing relief where procedural rights under 28 USC § 2254 habeas corpus are at stake.

The Eleventh Circuit's decision clearly shows the procedural ruling is wrong, which undermines the statutory intent and constitutional protections enshrined in the habeas corpus framework. By misapplying the appropriate standard of review, the Court impairs the Petitioner's right to challange a resentence judgement a right that forms

the bedrock of federal habeas proceedings, and is essential for ensuring that judicial errors are remedied. Slack v McDaniel, 529 US 473, 474 (2000)

Allowing inconsistent standards across circuits creates a fragmented jurisprudence that threatens uniformity in the applications of habeas corpus protections. The Supreme Court's intervention is necessary to resolve these conflicts and ensure a uniform standard across federal judiciary, thereby reinforcing the statutory and constitutional safeguards designed to correct void resentences, and strike down statutes.
The Eleventh Circuit's decision denying petitioner's appeal as frivolous and bypassing the requirement for a (COA) directly conflicts with Supreme Court precedent and other circuit decisions. This misapplication not only violates the statutory framework under 28 USC § 2253(c)(1)(A) but also imperils the fundamental right to federal habeas review in this resentencing case. Resolving these questions is imperative for ensuring that the balance between "unexecuted" judgements of resentencing that is "not" final and the right to a fair review is maintained, thereby protecting the broader principles of justice and the United States Constitution.

Finally, the District Court abused its discretion in the May 10, 2024 order, which failed to provide him with a due process notice requirement to file a "certificate of appealability" and "time frames" in the District Court to appeal the Rule 60(b)(4)(6) motions for relief from resentence judgement. See order May 10, 2024, 28 USC § 2253(c)(2). See Fed. R. App. Proc. Rule 22(a)(b)(1)(2)

The District Court erred that construed petitioner's "notice of appeal" as a "certificate of appealability". There is not any directive to order the petitioner to file a "certificate of appealability" within a "time frame" with a "substantial showing of a denial of constitutional rights" and a "substantial showing the procedural ruling is wrong." See order May 10, 2024, Appendix "B", Appendix "C". Slack v McDaniel, 529 US 473,484 (2000) MAY 24, 2024 Appendix "C" Rule 11 - 28 U.S.C § 2254

See also West v Schneiter, 485 F3D 393, 395 (CA72007) "A notice of appeal acts as a request for a certificate whether or not the prisoner files a separate application. Fed. R. App. P. 22(b)(2) ("If no express request for a certificate is filed the notice of appeal constitutes a request addressed to the judges of the court of appeals.") 28 USC § 2253(c)(2) "A notice of appeal does not give reasons and a silent document rarely constitutes a substantial showing of anything."

B. IMPORTANCE OF THE QUESTION PRESENTED

Does the Eleventh Circuit Court of Appeals refusal to grant petitioner a certificate of appealability and its determination that his in forma pauperis appeal is frivolous – a decision denying leave to appeal the District Courts dismissal of his Rule 60(b)(4)(6) Federal Rules of Civil Procedures motion[s] for relief from resentencing judgement to reopen his "first" habeas corpus resentence petition. 28 USC § 2254 which was "not" a second or successive habeas corpus petition. See Boyd v Smith Case No. 03-CIV, 5401 JSR, AJP, 2004 WL 2915243 AT 13* S.D.N.Y. December 17, 2004. The Eleventh Circuit denied petitioners petition for a certificate of appealability as "unnecessary" in error, his "COA" raised "non-frivolous" grounds arguable in facts and law, Neitzke v Williams, 490 US 319, 327 (1989) as follows:

Unconstitutional state sentencing statute consecutive provisions

Petitioner asserts pursuant to Gonzales v Crosby, 545 US 524, 528-532 (2005) and Ritter v Smith, 811 F2D 1398, 1401-1406 (CA111987). He is attacking the unconstitutional state sentencing statute consecutive provisions of OCGA § 16-11-106(b)(5) "any person who shall have on "..." his person a firearm "..." during the commission of "..." and which crime is a felony commits a felony and upon conviction "..." thereof shall be punished by confinement for a period of five (5) years, such sentence to run consecutively to any other sentence which the person has received."

Petitioner asserts the state sentencing statute OCGA§16-11-106(b)(5) is "unconstitutional" and "wholly irrational" because he "cannot" serve the count four, five (5) years "unexecuted" firearm possession "consecutive" resentence "in confinement" pursuant to OCGA § 16-11-106(b)(5) and pursuant to Ritter v Smith, 811 F2D 1398, 1401-1406 (CA111987) and Rooney v State, 287 GA 1-6 (GA2010). The statute can be attacked under Ritter at 1402 and the 8th and 14th Amendments to the United States Constitution. Petitioner seeks to reopen his first habeas corpus resentencing petition. The statute OCGA § 16-11-106(b)(5) is "unconstitutional" and "wholly irrational" (see Rooney at 6). "Traditionally, it is the task of the legislature, not the courts, to define crimes and set the range of sentences. "The legislatures choice of sentence is insulated from judicial review unless it is wholly irrational or so grossly disproportionate to the severity of the crime that it constitutes cruel and unusual punishment" and the judgement resentence is void pursuant to Rule 60(b)(4)(6) Fed. R. Civ. Proc.

Void for Vagueness

Because the Petitioner asserts the statute OCGA § 16-11-106(b)(5) is "vague on its face" there is "not" a "termination end date" that completes his count 2 life imprisonment resentence for the felony murder conviction, and there is "not" a "prison term date" for which the petitioner can begin to serve the count 4 (five-year) resentence in confinement consecutively to the count 2 life imprisonment resentence as well as, there is "not" a "certain date" that completes the count 4 (five-year) firearm resentence to be served in confinement in accordance to OCGA § 16-11-106(b)(5). Under no circumstances can it be applied constitutionally in his life resentence case, which the "wholly irrational" statute consecutive provision constitutes denial of prohibition of cruel and unusual punishment and the denial of due process under the 8th and 14th amendments to the United States Constitution and Georgia Constitution. "It has been said," that in cases of consecutive sentences each succeeding sentence begins at the date of the termination of the prior sentence". See Georgia Criminal Trial Practice 1990 Edition, Section 26-24".

Petitioner asserts the statute OCGA § 16-11-106(b)(5) "as applied" to his life resentence case for felony murder is "wholly irrational" because the count 4 five-year "unexecuted" consecutive resentence "judgement is void" pursuant to Rule 60(b)(4)(6) Fed. R. Civ. Proc., to the extent it purports to limit Petitioner's eligibility for parole reconsideration or parole in a way that is unauthorized by state law OCGA § 42-9-2 and the Georgia parole board's rules for life sentence cases Ga. Comp. Rule 475-03-.05 due to the federal courts habeas resentence proceedings on

March 23, 2006 he has been denied parole arbitrarily and capriciously four times Roller v Thompson, Warden Case No. 1:05-CV-0465 JOF-SEG. The count 4 (five-year) consecutive resentence judgement intrudes upon the constitutional prerogative of the Georgia Parole Board to extend clemency to Petitioner which constitutes "extraordinary circumstances" Ritter at 1402 where the judicial incursion violates the parole boards constitutional authority of the "separation of powers" provisions of the Georgia Constitution, Article IV, Section II, Paragraph II(a) and Paragraphs III. See Humphrey v State, 297 GA 349, 351 (2015), Ellison v State, 299 GA 779, 781 GA (2016), Ritter v Smith, 811 F2D 1398, 1402-1406 (CA111987). Petitioner asserts he can challenge the constitutionality of the statute OCGA § 16-11-106(b)(5) "a sentencing court retains jurisdiction to correct a void sentence at any time" See Rooney at 2.

Petitioner seeks the Courts intervention in this case for the Rule 60(b)(4)(6) relief. The petitioner asks the federal courts to declare the state sentencing statute consecutive provisions of OCGA § 16-11-106(b)(5) unconstitutional and remand this case to the Georgia Legislature to amend the statute, ID at 7. He further requests the court to declare the resentence on count 4 void and to order the state court to resentence him, Id at 7 doc 41 pursuant to Gonzales v Crosby, (545 US 524, 535 (2005), he is not challenging the state convictions, rather he seeks relief from a void resentence judgement under an unconstitutional state sentencing statute OCGA § 16-11-106(b)(5). There is no claim presented to set aside his state conviction.

This case presents "extraordinary circumstances" Rule 60(b)(4)(6) F.R.C.P. justifying habeas relief, because the petitioner's "unexecuted" count 4 (five-year) consecutive resentence to be served to

run consecutively to the count 2 life imprisonment resentence judgement OCGA § 16-11-106(b)(5) doc 27 at 6 is "unconstitutionally void" which is "not" a final judgement of resentence that constitutes "extraordinary circumstances" warranting setting aside the March 23, 2006 federal court judgement, "before the execution of the judgement." Ritter v Smith, 811 F2D 1398, 1402-1406 (CA111987) the court held federal rule of civil procedure Rule 60(b)(4)(6) sets forth possible basis for relief "from a judgement or order" ... "any other reason justifying relief" ... "Rule 60(b) can be used to remedy a mistake in the application of law Parks v US Life & Credit Corp, 677 F2D 838 (11th Cir. 1982)" ... "allow Rule 60(b)(4)(6)relief where there has been a clear-cut change in the law. "Collins challenged that constitutionality of a Kansas statute" ... "something more than a mere change in the law" ... "a significant factor" ... "the previous erroneous judgement of this court had not been "executed" a supervening superior court decision was the basis for granting a Rule 60(b)(4)(6) motion more than five years after the original judgment" (Tsakonites v TransAtlantic Carriers Corp, 322 F. Supp. 722 (S.D.N.Y. 1970) (allowing a successive petition for rehearing four years after denial of certiorari which erroneously let stand a lower court decision in conflict with supreme court precedent) (American World Airways Inc). Rule 60(b)(4)(6) can be used to remedy a mistake in the application of the law Parks v United States Life & Credit Corp, 677 F2D 838 (CA111982) "("[T]he law of this circuit permits a trial judge in his discretion to reopen a judgement on the basis of an error of law". "A significant factor in this case is the fact that the previous erroneous judgement of this case had not been executed". "The lessons of these cases is clear mere finality of judgement is not sufficient to thwart Rule 60(b)(4)(6) from an "unexecuted judgement". Thus, the fact that the previous judgement of this court, though final, was unexecuted is a significant factor in the extraordinary circumstances favoring relief from the judgement in this case. A third factor supporting a finding of extraordinary circumstance is the close connection between the two cases found the circumstances sufficiently extraordinary to justify disturbing the finality of the judgement two cases are related in so far as they concern the constitutionality of the exact same statute." See Ritter at 1402-4.

Petitioner asserts the statute OCGA § 16-11-106(b)(5) operates in "falsehood" for life sentences cases, ie, "no" state prisoner can serve the five-years consecutive ("unexecuted") resentence, in confinement, because there is "not" a "termination end date" that completes the sentence of life imprisonment. The importance is enhanced by the fact in the statutes operation it remains "unexecuted" since its inception and these issues complicate petitioner's life sentence case due to the unconstitutional state sentencing statute is on the books that affects petitioners ability to receive fair parole decisions that add months or years of added incarceration or harsh punitive confinement which constitutes cruel and unusual punishments of the 8th and 14th amendments to the United States Constitution, and we need the court's help to remedy this unjust law.

The Supreme Court of Georgia changed the law in the state sentencing statute OCGA § 16-11-106(b)(5) and caselaw Busch v State, 271 GA 591, 593 (GA 1999), Braithwaite v State 275 GA 884, 889 (GA 2002).

Petitioner argues that a supervening change in the law presents "extraordinary circumstances" in which the court has never squarely addressed pursuant to Rule 60(b)(4)(6) F.R.C.P. the issues importance is enhanced due to the fact, in life sentence cases all consecutive sentencing schemes is unconstitutionally void. See Ritter at 1402-4.

There are changes in the statute OCGA § 16-11-106(b)(5) state sentencing provisions "any person who shall on "..." his person a firearm "..." during the commission of "..." and which crime is a felony commits a felony and upon conviction "..." thereof shall be punished by confinement for a period of five years, such a sentence to run consecutively to any other sentence which the person has received."

In 1999, the statute was changed by the State Supreme Court in Busch v State, 271 GA 591, 593 (GA 1999), "we conclude that the most logical interpretation and the one most keeping with the purpose of OCGA § 16-11-106(b)(5) is to require that the five years sentence of subsection (b) run consecutively only to the underlying felony to the possession of firearm offense."

In 2002, the statute was changed again by the State Supreme Court in Braithwaite v State 275 GA 884, 889 (GA 2002). "we have construed that language of OCGA § 16-11-106(b)(5) to mean that a firearm possession sentence must only run consecutively to the sentence for its underlying felony conviction."

All of these changes to the sentencing law is 12 years after petitioner's original sentence and prior to the state trial court's May 23, 2003 sentence modification hearing, and the "amended final disposition order".

The petitioner asserts after his resentencing he wrote his resentence counsel to request a direct resentence appeal, however counsel told him an appeal of these issues is frivolous. The petitioner filed an out-of-time appeal that was denied in Roller v State, no. S04A0880 (order on March 1, 2004).

Petitioner filed a "first" federal habeas corpus resentence petition in Roller v Thompson, Warden, no. 1:05-cv-0465 JOF-SEG in which the Federal District Judge "misapprehended the Georgia law", "at that time" to deny petitioners habeas relief, due to there was a change in the laws of the state sentencing law that directly affects petitioner's count four (5) years "unexecuted" consecutive firearm resentence to be served to run consecutively to count "2" life imprisonment resentence for felony murder.

At issue, the petitioner was charged in the Clayton County indictment in State of Georgia v Jackie Ray Roller, criminal case number 1991-CR-22-3 Clayton County Superior Court, Georgia "Count four" "possession of firearm during the commission of a crime to wit: Malice Murder". (See Appendix C).

Petitioner was tried, convicted, and sentenced originally for count "2" life imprisonment resentence for "felony murder". The five-years to serve to run consecutive to count "2". On May 23, 2003, the State trial court conducted a sentence modification hearing and entered and filed the amended final disposition order. The State trial court resentenced him for felony murder count "2" life resentence and count "4" possession of a firearm during the commission of a crime. The court entered nolle prosequis for malice murder counts "1" and underlying felony "4" and possession of a firearm by a convicted felon count "3".

Petitioner asserts he is "ineligible" to receive the five years firearm consecutive resentence, because he was "not" resentenced for the underlying felony "to wit malice murder" in which the State trial court entered nolle prosequis "malice murder" counts "1" and "4".

Petitioner was resentenced for count "2" felony murder and the state trial court reimposed the life imprisonment resentence, however, the state trial court has never resentenced the petitioner for the count "2" underlying felony to wit: possession of firearm by a convicted felon charges, and the district court, and eleventh circuit's misinterpretation of these facts and the law he can never serve the five years "unexecuted" consecutive resentence (firearm possession) in confinement OCGA § 16-11-106(b)(5) Busch v State, 271 GA 591, 593 (GA 1999), Braithwaite v State 275 GA 884, 889 (GA 2002). SEE SPITZNAS V BOONE, 464 F3D 1213, 1225 (10TH CIR. 2006) RULE 60(b)(4) MOTIONS MAY BE BROUGHT AT ANY TIME, RULE 60(b)(6) PETITIONER'S RULE 60(b)(4)(6) MOTION IS TIMELY FILED.

CONCLUSION

For the foregoing reasons, certiorari should be granted in this case.

May 1, 2025

Respectfully Submitted,

Jackie Ray Roller

Jackie Ray Roller
Pro Se
GDC #675417
Burruss CTC
PO Box 5849
Forsyth, GA 31029

IN THE

SUPREME COURT OF THE UNITED STATES

no.

Jackie Ray Roller – Petitioner

v

Al Burruss State Prison, Warden – Respondent

PROOF OF SERVICE

I, Jackie Ray Roller GDC# 675417, do swear that on this date, May 1, 2025, as required by Supreme Court Rule 29, I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS AS A VETERAN and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Chris Carr, Department of Law, 40 Capitol Square Ave, Atlanta, Georgia 30334

CERTIFIED MAIL

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

Executed on May 1, 2025.

Signature

Jackie Ray Roller, Pro Se

GDC #675417

PO BOX 5849

Forsyth, Ga. 31029

IN THE

SUPREME COURT OF THE UNITED STATES

no.

Jackie Ray Roller – Petitioner

v

Al Burruss State Prison, Warden – Respondent

CERTIFICATE OF COMPLIANCE

As required by Supreme Court Rule 33.1(h), I certify that the petition for a writ of certiorari contains **4,530** words, excluding the parts of the petition that are exempted by Supreme Court rule 33.1(d).

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

Executed on May 1, 2025.

Signature

Jackie Ray Roller, Pro Se
GDC #675417
PO Box 5849
Forsyth,Ga. 31029

COPY

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

May 12, 2025

Jackie R. Roller
#675417
Burrus CTC
PO Box 5849
Forsyth, GA 31029

RE: Jackie Ray Roller v. Al Burrus SP Warden
USCA11 No. 24-11762

Dear Mr. Roller:

The above-entitled petition for writ of certiorari was originally postmarked March 15, 2025 and received again on April 22, 2025. The papers are returned for the following reason(s):

If you are intending to file a motion to proceed as a veteran under Rule 40, the motion should be titled as such. The attachment to the motion appears to contain sensitive information that should be redacted.

The petition should be legible. Rule 33.2(a).

Please correct and resubmit as soon as possible. Unless the petition is submitted to this Office in corrected form within 60 days of the date of this letter, the petition will not be filed. Rule 14.5.

A copy of the corrected petition must be served on opposing counsel.

When making the required corrections to a petition, no change to the substance of the petition may be made.

Sincerely,
Scott S. Harris, Clerk
By: COPY
Pipa Fisher
(202) 479-3019

Enclosures

April 4, 2025
Clerk, Supreme Court of United States
1 First St. N.E
Washington, D.C 20543

Dear Clerk,

Please find the Petitioner's Proof of Service dated April 4, 2025 (because of copies made). I mistakenly forgot to attach the "Proof of service" to the motion for leave to proceed in forma pauperis as a veteran and Petition for writ of certiorari (copy of original) sent to the Court by certified mail # 9589 0710 5270 1197 2991-82, on or about April 4, 2025. Please attach Proof of service to Petition for cert and motion for in forma pauperis

Please be advised Burrus' CTC mailroom clerk is not at work, the mailroom is closed, so I mailed these parcels on time. According to the mailbox rule.

Thank you,
Sincerely,
Jackie Ray Rollins Prose
GDC# 675417
Burrus CTC
P.O. Box 5849
Forsyth, Georgia 31029

No. _____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

JACKIE RAY ROLLER — PETITIONER
(Your Name)

VS.

AL BURROS S.P. WARDEN — RESPONDENT(S)

PROOF OF SERVICE

I, JACKIE RAY ROLLER GDC# 675417, do swear or declare that on this date, APRIL 4, 2025, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

CHRIS CARR, DEPARTMENT OF LAW, 40 CAPITOL SQUARE AVE. ATLANTA, GEORGIA 30334

CERTIFIED MAIL # 9589 0710 5270 1197 2991-82
9589 0710 5270 1197 2991-75

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

Executed on APRIL 4, 2025

Jackie Ray Roller
(Signature)

APPENDIX "A"

UNITED STATES COURT OF APPEALS, ELEVENTH CIRCUIT
ORDER DATED JANUARY 8, 2025 IN ROLLER V. ALBURROS
STATE PRISON, WARDEN, CASE NO. 24-11762-D
DIST CT. NO. 1:05-CV-0465 SEG

In the

United States Court of Appeals

For the Eleventh Circuit

No. 24-11762

JACKIE RAY ROLLER,

Petitioner-Appellant,

versus

AL BURRUS SP WARDEN,

Respondent-Appellee.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:05-cv-00465-SEG

ORDER:

APPENDIX "A"

Jackie Roller moves for a certificate of appealability (COA) and leave to proceed on appeal *in forma pauperis* (IFP) in order to appeal the district court's dismissal of his Fed. R. Civ. P. 60(b) motion as an impermissible second or successive 28 U.S.C. § 2254 petition. Roller's motion for a COA is DENIED AS UNNECESSARY. *See Hubbard v. Campbell*, 379 F.3d 1245 (11th Cir. 2004). The motion for leave to proceed IFP is DENIED because the appeal is frivolous. *See Pace v. Evans*, 709 F.2d 1428 (11th Cir. 1983).

UNITED STATES CIRCUIT JUDGE

APPENDIX "A"

APPENDIX "B"

UNITED STATES COURT OF APPEALS, ELEVENTH CIRCUIT

ORDER DATED FEBRUARY 20, 2025 IN ROLLER V. AC BURRUS STATE PRISON, WARDEN, CASE NO. 24-11762-D

DIST. CT. NO 1:05-0468 SEC

ORDER JANUARY 24, 2025 DISMISSED FAILURE TO PAY FILING FEES

DOCKET SHEET IFP GRANTED

APPE

In the

United States Court of Appeals

For the Eleventh Circuit

No. 24-11762

JACKIE RAY ROLLER,

Petitioner-Appellant,

versus

AL BURRUS SP WARDEN,

Respondent-Appellee.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:05-cv-00465-SEG

Before BRANCH and LAGOA, Circuit Judges.

APPENDIX "B"

BY THE COURT:

Jackie Roller has filed a motion for reconsideration of this Court's January 8, 2025, order denying a certificate of appealability ("COA") as unnecessary and denying leave to proceed *in forma pauperis* ("IFP"). He is appealing from the district court's denial of his Fed. R. Civ. P. 60(b) motions as an impermissible successive 28 U.S.C. § 2254 petition.

While Roller contends, *inter alia*, that this Court's order erroneously denied him IFP, because the district court granted him IFP in 2005, this Court properly denied him IFP upon finding that his appeal was frivolous. *See* 28 U.S.C. § 1915 (e)(2)(B)(i) ("Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that . . . the action or appeal . . . is frivolous or malicious."); 11th Cir. R. 42-4 ("If it shall appear to the court at any time that an appeal is frivolous and entirely without merit, the appeal may be dismissed."). Additionally, contrary to Roller's belief, he does not need a COA to appeal. Thus, after careful review, because Roller has not identified any points of law or fact that this Court overlooked or misapprehended in denying his motions, his motion for reconsideration is DENIED.

APPENDIX B

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 24-11762-D

JACKIE RAY ROLLER,

Petitioner - Appellant,

versus

AL BURRUS SP WARDEN,

Respondent - Appellee.

Appeal from the United States District Court
for the Northern District of Georgia

ORDER: Pursuant to the 11th Cir. R. 42-1(b), this appeal is DISMISSED for want of prosecution because the appellant Jackie Ray Roller has failed to pay the filing and docketing fees to the district court within the time fixed by the rules.

Effective January 29, 2025.

DAVID J. SMITH
Clerk of Court of the United States Court
of Appeals for the Eleventh Circuit

FOR THE COURT - BY DIRECTION

APPENDIX "B"

General Docket

United States Court of Appeals for the Eleventh Circuit

Court of Appeals Docket #: 24-11762 **Docketed:** 05/23/2024
Nature of Suit: 3530 Prisoner Petitions - Habeas Corpus
Jackie Roller v. Al Burrus SP Warden
Appeal From: Northern District of Georgia
Fee Status: IFP Granted *

Case Type Information:
1) Private Civil - Prisoner
2) State Habeas Corpus
3) -

Originating Court Information:
District: 113E-1 : 1:05-cv-00465-SEG
Civil Proceeding: Sarah Elisabeth Geraghty, U.S. District Judge
Secondary Judge: Linda Thompson Walker, U.S. Magistrate Judge
Date Filed: 02/17/2005
Date NOA Filed:
05/21/2024

Prior Cases:
None

Current Cases:
None

JACKIE RAY ROLLER (State Prisoner: #675417; State Prisoner: 675417) Petitioner - Appellant	Jackie Ray Roller [NTC Pro Se] Burruss CTC - Inmate Legal Mail PO BOX 5849 FORSYTH, GA 31029
versus	
AL BURRUS SP WARDEN Respondent - Appellee	Chad Eric Jacobs Direct: 404-885-1400 [NTC Retained] Drew Eckl & Farnham, LLP Firm: 404-885-1400 303 PEACHTREE ST NE STE 3500 ATLANTA, GA 30308

JACKIE RAY ROLLER,

APPENDIX "B"

Petitioner - Appellant,

versus

AL BURRUS SP WARDEN,

Respondent - Appellee.

10/07/2024	21	Notice of receipt: Status request. Public docket sent as to Appellant Jackie Ray Roller.. [Entered: 10/07/2024 11:40 AM]
07/25/2024	20	Notice of receipt: Status of appeal inquiry as to Appellant Jackie Ray Roller. Public docket sheet sent. [Entered: 07/25/2024 11:46 AM]
07/22/2024	19	Notice of receipt: Request to place COA on the docket as to Appellant Jackie Ray Roller. NO ACTION WILL BE TAKEN Motion for COA has been docketed and is pending with this Court. [Entered: 07/23/2024 12:04 PM]
07/16/2024	18	Notice that no action will be taken on Motion to reinstate appeal [17] filed by Appellant Jackie Ray RollerParty Jackie Ray Roller. Reason(s) no action being taken on filing(s):. This appeal has not been dismissed. Still pending with the Court. [Entered: 07/16/2024 12:51 PM]
07/16/2024	17	*MOTION to reinstate appeal filed by Appellant Jackie Ray Roller. Opposition to Motion is Unknown [17]* [Entered: 07/16/2024 12:50 PM]
07/08/2024	16	Notice of receipt: Request to send pro se rules and copies of CIP and TOF as to Appellant Jackie Ray Roller.. [Entered: 07/08/2024 03:15 PM]
07/02/2024	15	Notice that no action will be taken on Motion to proceed in forma pauperis [8] filed by Appellant Jackie Ray Roller. Reason(s) no action being taken on filing(s): IFP status has already been granted [Entered: 07/02/2024 04:51 PM]
07/02/2024	14	TRANSCRIPT INFORMATION form filed by Party Jackie Ray Roller. All necessary transcript(s) are on file. [Entered: 07/02/2024 04:22 PM]
07/02/2024	13	Notice that no action will be taken on cip and motion to file out of time filed by Appellant Jackie Ray Roller. Reason(s) no action being taken on filing(s): The filing was forwarded from another court. See FRAP 25(a)(1).. [Entered: 07/02/2024 04:07 PM]
06/28/2024	12	*MOTION for certificate of appealability filed by Appellant Jackie Ray Roller. Opposition to Motion is Unknown [12]* [Entered: 07/02/2024 11:29 AM]
06/28/2024	11	Notice of receipt: Motion for IFP as to Appellant Jackie Ray Roller. NO ACTION WILL BE TAKEN This motion is not necessary because IFP has already been granted. [Entered: 07/02/2024 11:23 AM]
06/24/2024	9	*MOTION for certificate of appealability filed by Appellant Jackie Ray Roller. Opposition to Motion is Unknown [9]* [Entered: 07/01/2024 10:44 AM]
06/24/2024	8	*MOTION to proceed IFP filed by Appellant Jackie Ray Roller. Opposition to Motion is Unknown [8]* [Entered: 07/01/2024 10:41 AM]

APPENDIX "B"

06/24/2024	7	Appellant's Certificate of Interested Persons and Corporate Disclosure Statement filed by Appellant Jackie Ray Roller. [Entered: 07/01/2024 10:38 AM]
06/24/2024	6	The Transcript Order Form has not been filed as to Appellant Jackie Ray Roller. The appellant is hereby notified that, pursuant to 11th Cir. R. 42-1(b), this appeal will be dismissed without further notice upon the expiration of 14 days from the date of this notice unless the appellant (1) files a completed Transcript Order Form in this Court AND in the district court OR files in this Court a certificate stating no transcript will be ordered; AND (2) files in this Court a Motion to File Documents Out of Time. [Entered: 06/24/2024 12:46 PM]
06/24/2024	5	NOTICE OF CERTIFICATE OF INTERESTED PERSONS (CIP) DEFICIENCY issued to Jackie Ray Roller. You have failed to file the standalone CIP. If you are an appellant or petitioner, pursuant to 11th Cir. Rules 26.1-5(c) and 42-1(b), this appeal will be dismissed without further notice upon the expiration of 14 days from the date of this notice unless you both remedy the default(s) AND file a motion to remedy the default(s). [Entered: 06/24/2024 12:44 PM]
06/10/2024	4	Notice that no action will be taken on Motion for certificate of appealability [3] filed by Appellant Jackie Ray RollerParty Jackie Ray Roller. Reason(s) no action being taken on filing(s): The filing is deficient for failure to comply with this Court's rules on Certificates of Interested Persons and Corporate Disclosure Statements. See 11th Cir. R. 26.1-1.. [Entered: 06/10/2024 03:50 PM]
06/10/2024	3	*MOTION for certificate of appealability filed by Appellant Jackie Ray Roller. Opposition to Motion is Unknown [3]* [Entered: 06/10/2024 03:50 PM]
06/03/2024	2	USDC order denying COA as to Appellant Jackie Ray Roller was filed on 05/24/2024. Docket Entry 46. [Entered: 06/03/2024 04:23 PM]
05/23/2024	1	HABEAS APPEAL DOCKETED. Notice of appeal filed by Appellant Jackie Ray Roller on 05/22/2024. Fee Status: IFP Granted. [Entered: 06/03/2024 04:03 PM]

APPENDIX "B"

APPENDIX "C"

UNITED STATES DISTRICT COURT, N.D. GA.

ORDER DATED MAY 10, 2024 IN ROLLER V. THOMPSON, WARDEN, CASE NO. 1:05-CV-0465 SEG

INDICTMENT NO. 1991-CR-22-3 STATE OF GEORGIA V JACKIE RAY ROLLER

FINAL DISPOSITIONS 1-11-91 / 5/23/03 STATE V JACKIE RAY ROLLER

ORDER DATED MAY 24, 2024 NOTICE OF APPEAL CONSTRUED AS COA.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JACKIE RAY ROLLER, Petitioner, v. WENDY THOMPSON, Warden, Respondent.	CIVIL ACTION NO. 1:05-CV-0465-SEG

ORDER

This case is before the Court on Petitioner Jackie Ray Roller's motions pursuant to Rule 60(b) for relief from the final judgment denying his petition for a writ of habeas corpus. (Doc. 27, 33, 35, 36, 39.) After careful consideration, the Court denies the motions.

I. Background

Petitioner was convicted on December 11, 1991, of felony murder and possession of a firearm during the commission of a crime. He was sentenced to life imprisonment on the murder charge and a consecutive, five-year sentence on the possession charge. *Roller v. State*, 453 S.E. 2d 740 (Ga. 1995). The Supreme Court of Georgia affirmed the convictions on February 27, 1995. *Id.* Petitioner filed a state petition for habeas corpus on October 20, 1995. The trial court denied that petition on February 21, 1996, and on April 29, 1996,

APPENDIX "C"

the Supreme Court of Georgia denied Petitioner's application for a certificate of probable cause.

On July 11, 1996, Petitioner filed a federal habeas corpus petition. *Roller v. Sikes*, Case No. 1:96-cv-1773-GET (N.D. Ga.). That petition was denied on May 28, 1997. Petitioner was denied a certificate of appealability. *Roller v. Sikes*, Case No. 97-8630 (11th Cir. 1998).

Petitioner filed a second federal habeas petition on October 31, 2001. *Roller v. Williams*, No. 5:01-cv-00441-DF (M.D. Ga.). He initially filed the petition in the Middle District of Georgia, seeking relief under 28 U.S.C. § 2241. Because the petition challenged the 1991 state court convictions, the Court construed the petition as being brought under § 2254 and transferred it to this district. *Roller v. Willliams*, No. 1:01-cv-03114-JOF (N.D. Ga.) On August 15, 2002, before the Court ruled on the petition, Petitioner voluntarily dismissed it.

On August 2, 2002, Petitioner filed a second state habeas petition based on the 1991 convictions. *Roller v. Williams*, No. 02CV37504 (Baldwin Super. Ct. Aug. 2, 2002). That petition was dismissed as successive on October 9, 2002. On May 24, 2004, the Georgia Supreme Court denied Petitioner a certificate of probable cause.

APPENDIX "C"

Following a hearing on May 23, 2003, the Superior Court of Clayton County entered an order correcting an error in Petitioner's sentence nunc pro tunc and re-imposing the same sentence.[1] Petitioner's motion for leave to appeal the resentencing order out-of-time was denied on December 12, 2003. Petitioner's appeal of that denial was dismissed by the Georgia Supreme Court on March 1, 2004.

On July 31, 2003, Petitioner filed a third state habeas petition. This petition challenged both the 1991 convictions and the 2003 resentencing order. That petition was dismissed as successive on April 22, 2004. On June 30, 2005, the Georgia Supreme Court denied Petitioner a certificate of probable cause. *Roller v. Williams*, Case No. S04H1552 (Ga.).

Petitioner filed a fourth state habeas petition on May 11, 2004, challenging the 1991 convictions. That petition was dismissed as successive

---

[1] Petitioner was indicted on four counts: malice murder (Count 1), felony murder (Count 2), possession of a firearm by a felon (Count 3) and possession of a firearm during a crime (Count 4). The jury convicted him of felony murder (Count 2) and possession of a firearm during commission of a crime (Count 4). In sentencing petitioner, the trial court merged Counts 1 and 2 and merged Counts 3 and 4, even though Petitioner had not been convicted of Counts 1 and 3. On May 23, 2003, the trial court resentenced Petitioner to correct this error. It then imposed the same sentence it imposed in 1991 (life on the felony murder charge and a consecutive five years of imprisonment on the possession charge). The trial court also entered an order of nolle prosequi with respect to Counts 1 and 3. (Doc. 27 at 9.)

APPENDIX "C"

on September 23, 2004, and on July 8, 2005, the Georgia Supreme Court denied Petitioner's application for a certificate of probable cause. *Roller v. Williams*, Case No. S05H0232 (Ga.).

Petitioner filed the instant action, his third federal habeas petition, on February 17, 2005. (Doc. 1.) This petition challenged the 1991 convictions and the 2003 resentencing order. Because Petitioner had not obtained authorization from the Eleventh Circuit prior to filing this successive petition, the Court[2] lacked jurisdiction to consider the merits of Petitioner's claims concerning the 1991 convictions. (Doc. 25.) The Court proceeded, however, to adjudicate Petitioner's claims concerning the 2003 resentencing order because those claims related to matters that occurred after Petitioner's first two federal habeas petitions were dismissed. The Court found that Petitioner failed to establish that he was entitled to relief on the claims concerning the resentencing, and judgment was entered on March 23, 2006. (*Id.*, Doc. 26.) Petitioner did not appeal the March 23, 2006, order or judgment.

In 2016, Roller filed another federal petition for a writ of habeas corpus, which the district court "dismissed as impermissibly successive." Order, *Roller*

---

[2] The case was initially assigned to the Honorable J. Owen Forrester. The case was reassigned to the undersigned on September 13, 2023.

APPENDIX "C"

v. Warden, No. 1:16-cv-3621-ODE (N.D. Ga. Nov. 3, 2016). On July 13, 2017, the Court of Appeals affirmed the dismissal. *Roller v. Warden*, 693 F. App'x 851 (11th Cir. 2017). It found that Roller had failed to obtain from the Court of Appeals leave to file a successive petition. *Id.* at 852.

On September 13, 2023, Petitioner filed a motion for relief from the March 23, 2006, judgment in this case pursuant to Federal Rule of Civil Procedure 60(b). (Doc. 27.) Since then, he has filed two amended Rule 60(b) motions, one on October 18, 2023 (Doc. 33) and the other on November 24, 2023 (Doc. 35).[3] Petitioner filed a fourth Rule 60(b) motion on December 6, 2023 (Doc. 36), and a fifth Rule 60(b) motion on February 22, 2024 (Doc. 39). Petitioner has also filed motions seeking to have his federal habeas petition in this case "re-opened" and assigned a new case number.[4] (Doc. 30, 32.)

---

[3] The November 24, 2023, motion is styled as "Part II, Amended Motion for Relief from Judgment of Resentenc[ing], Recall the Mandate." (Doc. 35 at 1.)

[4] After these motions were filed, the Clerk on April 14, 2024, filed a document received from Petitioner entitled "Movant's Motion for Relief from Resentence Judgement" as a complaint for mandamus relief with a new case number. *Roller v. State of Georgia*, No. 1:24-cv-1591-MHC (N.D. Ga.). That Rule 60(b) motion also challenges Petitioner's 1991 convictions and the 2003 resentencing. On April 19, 2024, the Magistrate Judge in that case directed the Clerk to convert that matter into a § 2254 habeas action. The Magistrate Judge then issued a Report and Recommendation ("R&R") that recommends the action be dismissed because the Court lacks jurisdiction to consider the merits as it is a successive petition filed without authorization from the

II. Legal Standard

Rule 60 of the Federal Rules of Civil Procedure provides for relief from a judgment or order. Under Rule 60(a), the Court can correct clerical mistakes and mistakes resulting from "oversight or omission" in a judgment. Under Rule 60(b), the Court may relieve a party from final judgment on the following grounds:

> (1) mistake, inadvertence, surprise, or excusable neglect;
>
> (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
>
> (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
>
> (4) the judgment is void;
>
> (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
>
> (6) any other reason that justifies relief.

Fed. R. Civ. P. 60(b). "The purpose of a Rule 60(b) motion is to permit the district court to reconsider matters [ ] to correct obvious errors or injustices." *Anderson v. United States*, 159 F. App'x 936, 938 (11th Cir. 2005). A Rule 60(b)

Eleventh Circuit. Petitioner has not filed any objections to the Magistrate Judge's R&R. The matter has been submitted to the District Judge.

 APPENDIX "C"

movant must persuade the Court "that the circumstances are sufficiently extraordinary to warrant relief." *Toole v. Baxter Healthcare Corp.*, 235 F.3d 1307, 1317 (11th Cir. 2000) (internal quotation omitted). Whether to grant relief is a decision committed to the sound discretion of the district judge. *Booker v. Singletary*, 90 F.3d 440, 442 (11th Cir. 1996).

Rule 60 "provides a basis, but only a limited basis, for a party to seek relief from a final judgment in a habeas case." *Williams v. Chatman*, 510 F.3d 1290, 1293 (11th Cir. 2007) "While Rule 60(b) permits a party to seek relief from a judgment on certain limited grounds, it cannot be used by habeas petitioners to raise new claims for habeas relief: this use would circumvent the [Antiterrorism and Effective Death Penalty Act] requirement that a petitioner obtain the approval of the appropriate court of appeals before filing a second or successive habeas petition." *Franqui v. Fla.*, 638 F.3d 1368, 1371 (11th Cir. 2011) (citing *Gonzalez v. Crosby,* 545 U.S. 524 (2005)).

"The Supreme Court held in *Gonzalez* that a Rule 60(b) motion is to be treated as a successive habeas petition if it: (1) 'seeks to add a new ground of relief;' or (2) 'attacks the federal court's previous resolution of a claim *on the merits*.'" *Williams*, 510 F.3d at 1293-94 (emphasis in original) (quoting *Gonzalez*, 545 U.S. at 532). Where, however, a Rule 60(b) motion "attacks, not the substance of the federal court's resolution of a claim on the merits, but

 APPENDIX "C"

some defect in the integrity of the federal habeas proceedings," the motion is not a successive habeas petition. *Gonzalez*, 545 U.S. at 532. Motions under Rule 60(b) "must be made within a reasonable time[.]" Fed. R. Civ. P. 60(c)(1).

III. Discussion

The Court first considers the substance of Petitioner's Rule 60 requests for relief and finds that the requests constitute a successive habeas petition. The Court then turns to the issue of timeliness and finds that Petitioner's requests for relief are not timely under Rule 60.

A. Petitioner's Requests for Rule 60 Relief Constitute a Successive Habeas Petition

Petitioner seeks relief from the judgment entered on March 23, 2006, dismissing his third federal habeas petition. He argues that extraordinary circumstances warrant vacating the judgment and re-opening his habeas case because the "final judgment of resentence [from the state court] was 'unexecuted'" (Doc. 27 at 6) in that he cannot serve the consecutive, five-year sentence on the Count 4 possession charge because his life sentence for felony murder has no end date. As a result, he argues, the sentence on Count 4 is "unconstitutionally void" and "wholly irrational." (Doc. 36 at 3, 4.)

APPENDIX "C"

Petitioner also challenges the Court's determination that "the felony underlying Petitioner's felony murder conviction was his possession of a firearm as a convicted felon." *See* Doc. 27 at 3 (citing Doc. 25 at 15). Petitioner asks this Court to "declare the state sentencing statute consecutive provisions of O.C.G.A. § 16-11-106(b)(5) unconstitutional [and] remand this case to the Georgia legislature to amend the statute." (*Id.* at 7.) He further asks the Court to declare the sentence on Count 4 void and to order the state court to resentence him. (*Id.* at 7.)

After a careful review of Petitioner's Rule 60 motions and related filings, the Court finds that they must be considered a successive habeas petition. In these motions, Petitioner challenges (1) his state court convictions, on many of the same grounds that have been considered by this Court, and (2) the merits of the 2006 order on Petitioner's habeas petition. *Williams*, 510 F.3d at 1293-94 (stating that a Rule 60(b) motion is to be treated as a successive petition if it attacks the federal court's previous resolution of a claim on the merits). For example, Petitioner asserts his disagreement with the Court's determination in the 2006 order that Petitioner could not "establish that his attorney's failure to file a notice of appeal prejudiced him." (Order, Doc. 25 at 16.) And Petitioner raises other claims regarding ineffective assistance of his counsel at the resentencing that were also addressed by the Court in the 2006 order. (*Id.* at

 APPENDIX "C"

14.) Liberally construed, Petitioner argues that his motions should not be considered successive because there was "a defect in the integrity" of the federal habeas proceeding. (*See, e.g.*, Doc. 36 at 5.) But the "defect" alleged is really a challenge to the underlying conviction – that the sentence Petitioner received on Count 4 should be considered "void." *See id.* Judge Forrester's 2006 order addressed and rejected this argument. (Doc. 25 at 14-16.) In short, Petitioner's Rule 60(b) motions challenge the Court's resolution of the merits of the claims presented in his 2005 federal habeas petition. They constitute a successive habeas petition. *See Gonzalez*, 545 U.S. at 531-32.

As noted above, before a petitioner may file a successive habeas petition in this district, he first must obtain an order from the Eleventh Circuit Court of Appeals authorizing the district court to consider the motion.[5] 28 U.S.C. § 2244(b)(3)(A). Absent authorization from the Eleventh Circuit, the district court lacks jurisdiction to consider a successive habeas petition. *See Hill v. Hopper,* 112 F.3d 1088, 1089 (11th Cir. 1997).

---

[5] The Clerk is DIRECTED to send Petitioner the Eleventh Circuit's Application for Leave to File a Second or Successive Habeas Corpus Petition, 28 U.S.C. § 2244(b), By a Prisoner in State Custody. This application should be returned to the Eleventh Circuit at the address listed on the application.

APPENDIX "C"

B. Petitioner's Rule 60(b) Motions Are Untimely

Generally, a Rule 60(b) motion must be filed within a reasonable time. Fed. R. Civ. P. 60(c)(1). "What constitutes a 'reasonable time' depends upon the circumstances of each case, including 'whether the parties have been prejudiced by the delay and whether a good reason has been presented for failing to take action sooner.'" *Gill v. Wells*, 610 F. App'x 809, 812 (11th Cir. 2015) (quoting *BUC Int'l Corp. v. International Yacht Council Ltd.*, 517 F.3d 1271, 1275 (11th Cir. 2008)). Where a petitioner seeks relief under Rule 60(b)(4), the time for filing such a motion is not constrained by reasonableness. *Gill*, 610 F. App'x at 812 (quoting *Hertz Corp. v. Alamo Rent-A-Car, Inc.*, 16 F.3d 1126, 1130 (11th Cir. 1994)).[6] Nevertheless, a district court may appropriately deny a Rule 60(b)(4) motion "where the party seeking relief 'knowingly sat on his rights,' and 'does not give an acceptable reason for this delay.'" *Gill*, 610 F. App'x at 812 (quoting *Stansell v. Revolutionary Armed Forces of Columbia*, 771 F.3d 713, 736-38 (11th Cir. 2014)).

---

[6] Petitioner appears to rely on Rule 60(b)(4), at least in part. Under Rule 60(b)(4), a district court may relieve a party from a final judgment, order, or proceeding if the judgment is void. Fed. R. Civ. P. 60(b)(4). A judgment is "void" under Rule 60(b)(4) "if the court that rendered it lacked jurisdiction of the subject matter, or of the parties, or if it acted in a manner inconsistent with due process of law." *Burke v. Smith*, 252 F.3d 1260, 1263 (11th Cir. 2001) (quotation marks omitted). APPENDIX "C"

Petitioner filed the first Rule 60(b) motion under consideration here (Doc. 27) over 17 years after judgment was entered in this case. His other Rule 60(b) motions and amendments were filed even later. Petitioner does not assert that he was unaware of the Court's ruling when it was issued in 2006, and the 17-year delay remains unexplained on the record. The Court cannot find that a 17-year, unexplained delay is "reasonable" within the meaning of Rule 60. *See, e.g., Gill,* 610 F. App'x at 813 ("readily conclud[ing]" that the petitioner did not file a Rule 60(b)(4) motion within a reasonable time, where the motion was filed ten years after the challenged judgment and petitioner did not explain why he "sat on his rights" for six of those years); *Glean v. Sikes,* No. CV598–017, 2014 WL 4928885, at *2 (S.D. Ga. Sept. 26, 2014) (finding Rule 60(b)(4) motion filed more than twelve years after the § 2254 petition was denied was not filed within a reasonable time). The Court therefore deems the Rule 60(b) motions to be untimely.

IV. Conclusion

For the reasons stated above, Petitioner's Rule 60(b) motions for relief from judgment are DENIED. (Doc. 27, 33, 35, 36, 39.) Petitioner's motions seeking to have his federal habeas petition "re-opened" and assigned a new case number are DENIED. (Doc. 30, 32.) Petitioner's motion requesting a

APPENDIX "C"

ruling is GRANTED to the extent that the Court has now ruled on his pending motions. (Doc. 37.)

SO ORDERED this 10th day of May, 2024.

Sarah E. Geraghty

SARAH E. GERAGHTY
United States District Judge

APPENDIX "C"

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JACKIE RAY ROLLER, Petitioner, v. WENDY THOMPSON, Warden, Respondent.	CIVIL ACTION NO. 1:05-CV-0465-SEG

ORDER

This case is before the Court on Petitioner Jackie Ray Roller's notice of appeal which the Clerk has also construed as a motion for certificate of appealability. (Doc. 45.)

On May 10, 2024, this Court issued an order denying Petitioner's motions for relief from judgment pursuant to Federal Rule of Civil Procedure 60(b). (Doc. 41.) Pursuant to Rule 11 of the Rules Governing Section 2254 Cases, "[t]he district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant . . . If the court issues a certificate, the court must state the specific issue or issues that satisfy the showing required by 28 U.S.C. § 2253(c)(2)." Rule 11(a), Rules Governing Section 2254 Cases in the United States District Courts. Under § 2253(c)(2), a certificate of appealability may issue "only if the applicant has made a

Appendix "C"

substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). A substantial showing of the denial of a constitutional right "includes showing that reasonable jurists could debate whether (or, for that matter, agree that) the [motions] should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (internal quotation marks omitted).

The issuance of a certificate of appealability is not warranted here because, for the reasons set out in the May 10 order, the Court finds that reasonable jurists could not find that the denial of Petitioner's motions was debatable or incorrect. Petitioner's motion for a certificate of appealability, construed from the notice of appeal, is DENIED. Any future request for a certificate of appealability should be directed to the United States Court of Appeals for the Eleventh Circuit pursuant to Fed. R. App. P. Rule 22(b)(1).

SO ORDERED this 24th day of May, 2024.

Sarah E. Geraghty

SARAH E. GERAGHTY
United States District Judge

 Appendix "C"

Clayton Superior Court

NOVEMBER ..... Term, 19 90

Det. C. L. Butler

THE STATE

VERSUS

JACKIE RAY ROLLER .....
COUNT I-MURDER
COUNT II-FELONY MURDER .....
COUNT III-POSSESSION OF A FIREARM BY A CONVICTED FELON
COUNT IV-POSSESSION OF A FIREARM DURING THE COMMISSION OF A CRIME

04/25/90

.....

.....

True ..... BILL

Earl P. Simon ..... Foreman

The Defendant JACKIE RAY ROLLER
waives copy of Indictment, list of witnesses,
full panel, formal arraignment, and pleads

X ..... NOT ..... Guilty

This the 15TH DAY ~~OF FEBRUARY~~ March 19 91

Asst. District Attorney

Brian A. Bell Jr. Defendant

Defendant's Attorney

3/15/91 Defendant stood mute

Returned In Open Court and Filed In This Office on Jan. 9, 19 91

Jo Ann Morton
Clerk, Clayton Superior Court

APPENDIX "C"

We, the Jury, find the defendant ..... (Not Guilty)

..... (Guilty)

..... Foreman

..... , 19 .....

PART I

STATE OF GEORGIA, COUNTY OF CLAYTON

IN THE SUPERIOR COURT OF SAID COUNTY

THE GRAND JURORS selected, chosen and sworn for the County of Clayton, to-wit:

1. EARL SINOR ..... , Forema
2. Darrell Gibbs .....
3. Cathy Belew .....
4. John Cason .....
5. Judy Mayer .....
6. Debbi Lenny .....
7. [redacted] .....
8. Kathy Cagle .....
9. Elizabeth Davis .....
10. [redacted] .....
11. Lynne Yates .....
12. Leslie Banks .....
13. Mike Kelly .....
14. [redacted] .....
15. Linda Clark .....
16. Connie Dunn .....
17. Liz Hayes .....
18. Nancy J. Lewis .....
19. Don H. Mabry .....
20. Erna B. Keown .....
21. Jimmy DeBuc .....
22. Tommy Digby .....
23. Bobby Gibbs .....
24. Jim Smith ..... , Alternat
25. Karen Smith ..... , Alternat

in the name and behalf of the citizens of Georgia, charge and accuse

JACKIE RAY ROLLER

with the offense of: —

MURDER

for that said accused, in the County of Clayton and State of Georgia, on the 25th day of April , 19 90 did unlawfully and with malice aforethought cause the death of Elizabeth Darlene Willis, a human being by shooting said Elizabeth Darlene Willis with a firearm,

COUNT II

And the Grand Jurors aforesaid, on their oaths aforesaid, in the name and behalf of the citizens of Georgia, further charge and accuse JACKIE RAY ROLLER, with the offense of FELONY MURDER, for that the said accused in the County of Clayton and State of Georgia, onn the 25th day of April, 1990, while in the commission of a felony, to-wit: Possession of a Firearm by a Convicted Felon, cause the death of Elizabeth Darlene Willis, a human being by shooting said Elizabeth Darlene Willis with said firearm,

COUNT III

And the Grand Jurors aforesaid, on their oaths aforesaid, in the name and behalf of the citizens of Georgia, further charge and accuse JACKIE RAY ROLLER, with the offense of POSSESSION OF A FIREARM BY A CONVICTED FELON, for that the said accused in the County of Clayton and State of Georgia, on the 25th day of April, 1990, having been convicted of the following felony, to-wit: Attempted Assault with Intent to Kill, Circuit Court of Wayne County, State of Michigan, Case Number 73-57360, did possess a certain firearm,

COUNT IV

And the Grand Jurors aforesaid, on their oaths aforesaid, in the name and behalf of the citizens of Georgia, further charge and accuse JACKIE RAY ROLLER, with the offense of POSSESSION OF A FIREARM DURING THE COMMISSION OF A CRIME, for that the said accused in the County of Clayton and State of Georgia, on the 25th day of April, 1990, did have on his person a certain firearm, during the commission of a crime, to-wit: Murder, said crime being against the person of another, to-wit: Elizabeth Darlene Willis, and which crime was a felony,

APPENDIX "C"

contrary to the laws of said State, the good order, peace and dignity thereof.

ROBERT E. KELLER District Attorney, Clayton Superior Court

#1

P.99

FILED
CLAYTON COUNTY, GA.
2003 MAY 23 PM 5:12
CLERK SUPERIOR COURT

IN THE SUPERIOR COURT OF CLAYTON COUNTY
AMENDED FINAL DISPOSITION

MAY TERM, 2003

CRIMINAL ACTION # 1991CR00022-3

THE STATE OF GEORGIA

OFFENSE(S): COUNT 1-MALICE MURDER; COUNT 2-FELONY MURDER; COUNT 3-POSSESSION OF FIREARM BY A CONVICTED FELON; COUNT 4-POSSESSION OF FIREARM DURING COMMISSION OF A FELONY

VS.
JACKIE RAY ROLLER

JURY VERDICT OF GUILTY ON COUNTS 2 & 4
NOLLE PROSEQUI ENTERED ON COUNTS 1 & 3.

FELONY SENTENCE

WHEREAS, THE ABOVE NAMED DEFENDANT, HAVING BEEN FOUND GUILTY ON COUNTS 2 AND 4 BY A JURY, AND, BEING BEFORE THE BAR OF THIS COURT AND SHOWING NO REASON WHY THE SENTENCE OF THE COURT SHOULD NOT BE PRONOUNCED, IT IS HEREBY ORDERED AND ADJUDGED THAT THE DEFENDANT BE SENTENCED TO CONFINEMENT IN THE STATE PENAL SYSTEM OR SUCH OTHER INSTITUTION AS THE COMMISSIONER OF THE STATE DEPARTMENT OF CORRECTIONS OR COURT MAY DIRECT FOR A PERIOD OF:

COUNT 1-NOLLE PROSEQUI
COUNT 2- LIFE IMPRISONMENT
COUNT 3-NOLLE PROSEQUI
COUNT 4-FIVE YEARS TO SERVE TO RUN CONSECUTIVE TO COUNT 2

TO BE COMPUTED ACCORDING TO LAW.
THE DEFENDANT WAS REPRESENTED BY: John Beall and B.J. Dixon, ATTORNEYS AT LAW.

BY THE COURT NUNC PRO TUNC DECEMBER 11, 1991.

TODD E. NAUGLE
SENIOR ASSISTANT DISTRICT ATTORNEY
CLAYTON JUDICIAL CIRCUIT

STEPHEN E. BOSWELL
JUDGE, SUPERIOR COURT
CLAYTON JUDICIAL CIRCUIT

 APPENDIX C-1

MICROFILMED

EXHIBIT "A"

SENTENCE: (FELONY) ~~(MISDEMEANOR)~~

Charge COUNT I-MURDER; COUNT II-FELONY MURDER; COUNT III-POSSESSION OF A FIREARM BY A CONVICTED FELON; COUNT IV-POSSESSION OF A FIREARM DURING THE COMMISSIC OF A CRIME

Clayton Superior Court

NOVEMBER Term, 19 91

No. 91-CR-00022-3

THE STATE

vs.

JACKIE RAY ROLLER

~~(Plea)~~ (Verdict) of Guilty

WHEREUPON, The Defendant being before the Bar of this Court and showing no reason why the sentence of the Court should not be pronounced.

WHEREUPON, IT IS ORDERED AND ADJUDGED that the Defendant,

JACKIE RAY ROLLER

be taken from the Bar of the Court to the Jail of Clayton County, and be there safely kept until a sufficient guard is sent for him from the Georgia Penitentiary, and be then delivered to, and be by said guard taken to said Penitentiary, or to such other place as the Director of Corrections may direct, where the said defendant shall be confined at labor for a full term of ~~XXXXXXXXXXXXXXXX~~ ~~(months) (years), to be computed according to law.~~

* COUNT I-Merged by Court with Count II;

COUNT II-LIFE IMPRISONMENT;

* COUNT III-Merged by Court with Count II;

COUNT IV-Five (5) years to serve consecutive to Count II, to be computed according to law.

__x__ Defendant was advised of his/her right to have this sentence reviewed by the Superior Courts Sentence Review Panel.

The defendant was represented by John Beall, Attorney at Law.

FILED IN OFFICE
DEC 11 — 3 35 PM '91
CLERK SUPERIOR COURT
CLAYTON COUNTY, GA.

APPENDIX "C"

By the Court December 11, 1991

TODD E. NAUGLE
Assistant District Attorney

STEPHEN E. BOSWELL
Judge Superior Court

F-97