NO. 17-6221

IN THE

SUPREME COURT OF THE UNITED STATES

SANDRO BALADEZ,

PETITIONER,

VS.

LORIE DAVIS,

RESPONDENT.

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

****

PETITION FOR REHEARING

Respectfully submitted

/s/ Sandro Baladez

Sandro Baladez #1116255
Gib Lewis Unit
777 FM 3497
Woodville, Texas 75990

Pro se Petitioner.

NO. 17-6221

IN THE

SUPREME COURT OF THE UNITED STATES

SANDRO BALADEZ, PETITIONER	)	
VS.	)	DENIAL OF PETITION FOR WRIT OF CERTIORARI ON 12/04/2017
LORIE DAVIS, RESPONDENT	)	

REHEARING PETITION

Pursuant to Supreme Court Rule 44.(1-2); and Federal Rules of Appellate Procedure Rule 35, Mr.Baladez requests rehearing of No.17-6221, denial of Petition For Writ of Certiorari on 12/04/2017, in good faith since the Federal laws of this Court been revoked for Mr.Baladez.

STATEMENT FOR REHEARING

Mr.Baladez contends this Court judgment of December 4, 2017 denying Petition For Writ of Certiorari, directly undermines and conflicts with prior and previous precedents, federal laws of this Court, denying Mr.Baladez his 14th Amendment right to equal protection of law and due process, and therefore, rehearing is necessary in order to faithfully serve and fifull Congressional purposes, but most of all, to uphold the United States Constitutional rights and this Court's Federal laws for all American equally. See Evitts v. Lucey, 469 U.S. at 400-01, 105 S.Ct. at 838-39, 83 L.Ed.2d 821 (1985).

This Court held that the Antiterrorism and Effective Death Penalty Act of 1996 law does not require State and Federal courts to wait for some nearly identical factual patterns before a legal rule must be applied. Carey v. Musladin, 127 S.Ct. 649, 656 (2006)(Justice Kennedy concurred in judgment), Nor does AEDPA prohibits a federal court from finding an application fof a principle unreasonable when it involves a set of facts different from those of the

case in which the principle was announced. Panetti v. Quarterman, 551 U.S. 930, 127 S.Ct. 2842, 2858, 168 L.Ed.2d. at 682 (2007), and that a state court decision is contrary to this Court clearly established Federal laws if it confronts a set of facts that are materially indistinguishable from a decision of this Court and nevertheless arrives at a results different from this Court precedent. See Price v. Vincent, 538 U.S. 634, 123 S.Ct. 1848, at 1858, 155 L.Ed.2d 877 (2003); and 28 U.S.C.S. §2254(d)(1). and

Yet, Mr.Baladez pro se appeal contentions been subject to none Congressional and Supreme Court federal laws etc.

CERTIFICATE OF INTERESTED PERSONS

The undersigned hereby certifies that the following list of persons might have an interest in the outcome of this case. These representations are made in order for the Justices of this Court to evaluate possible disqualifications or recusal.

PARTIES:

Sandro Baladez.....Petitioner/Appellant

Lorie Davis.....Respondent/Appellee

COUNSELS FOR PARTIES:

Sandro Baladez.....Pro se

Edward L. Marshall and.....Appellate Counsels for Respondent Lorie Davis
Sallie Christian-Carnal
Office of Attorney General
P.O. BOX 12548, Capitol Station,
Austin, Texas 78711

Ken Paxton.....Texas Attorney general
Office of Attorney General
P.O. BOX 12548, Capitol Station,
Austin, Texas 78711

Department of Justice.....Solicitor General of the U.S.
Room 5616
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Brian D. Hendrix.....Trial Counsel for Mr.Baladez
Attorney at Law
121 S. Main St, Suite 205
Victoria, Texas 77902

W.A. Bill White.....Appellate Counsel for Mr.-Baladez (direct appeal)
Attorney at Law
P.O. BOX 7422
Victoria, Texas 77903-7422

/s/ Sandro Baladez

QUESTIONS OF EXCEPTIONAL IMPORTANCE

Can the Justices of this Court revoke this Court's prior and previous Federal laws and precedents simply because Mr.Baladez (an American citizen), is a pro se uneducated, indigent litigant to deny him his Constitutional rights [under the 14th Amendment equal protection of law and due process]?

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STATEMENT OF THE ISSUES

ERROR NO: ONE

This Court's denial of Petition For Writ of Certiorari [No.17-6221] on December 4, 2017, revokes Mr.Baladez Constitutional rights, "14 Amendment clauses to equal protection of laws; and due process; as this Court's prior and previous Federal laws and precedents progeny."

STATEMENT OF CASE PROCEEDINGS AND DISPOSITIONS

The 13th District of Texas Court of Appeals affirmed trial court judgment May 13, 2004. Mr.Baladez didn't petition for discretionary review of it's judgment. (*Not applicable nor prerequisite procedure under Texas Rules of Appellate Procedure, Section Two, to file a petition for discretionary review).

The 24th Judicial District Court (trial court) of Jackson County finding of facts, conclusion and recommendations "that there were no controverted, previously unresolved facts which needed to be resolved"; and without conducting an hearing on trial counsel undisclosed actual conflict of interest(s); and ineffective assistance of (trial and appellate) counsels claims, the Court of Criminal Appeals, Texas highest Court, denied Mr.Baladez postconviction habeas relief March 4, 2015.

The United States District Court for the Southern District of Texas denied Mr.Baladez habeas claims; certificate of appealability; and dismissed Mr.-Baladez federal habeas petition under §2254 as time-barred under Roberts v. Cockrell, 319 F.3d 690 (5th Cir.2003)(that §2244(d)(1)(A) was triggered by the expiration of the 30 days to petition for discretionary review (of Texas lower appellate court May 13, 2004 judgment), and therefore, the one year limitations period expired one year after, May 14, 2005 for Mr.Baladez to petition for federal habeas relief).

The United States Fifth Circuit Court of Appeals denied "Broaden Certifi-

cate of Appealabilities on the issues denied by the State and district courts, July 5, 2017; and denied Petition For Rehearing En Banc August 7, 2017.

This Court denied Petition For Writ of Certiorari December 4, 2017.

STATEMENT OF THE FACTS

In The 24th Judicial District **Court (trial court) of Jackson County** Texas, Mr.Baladez contended in the 11.07 State postconviction application for Writ of Habeas Corpus relief, that his 14th Amendment rights to fair and impartial trial; and 6th Amendment right to effective assistance of conflict-free counsel representation were violated by trial court appointed defense counsel Brian D. Hendrix failed to apprise Mr.Baladez of his [Mr.Hendrix] previous juvenile prosecutions of Mr.Baladez in 1998 as a juvenile assistant prosecutor. See [Reporter Record Volume 6 of 6, State's Exhibit's, Juvenile Record Documents of Cause No.2-2756]; and of his undisclosed agreements with prosecutor not to present evidence on behalf of Mr.Baladez defense. [RR Vol 5. pg 103, lines 14-23]; and engaged in a prejudice dual representation as a prosecutor advocacy against Mr.Baladez in the innocent/guilt phase urging the jury (after he failed to investigate, interview or obtain "Stewart Barber", essential witness to alleged out-of-court charge of Mr.Baladez unauthorized use of Mr.Barber vehicle, felony element used to enhance the intoxication manslaughter to felony murder, on December 4, 2000, for the Confrontation process to refute such allegations. [RR Vol 4. pgs 81 and 85, lines 12-22, 7-8], and or request evidentiary hearings for exclusion of inadmissible prejudice evidence), that they had previously found (Mr.Baladez) guilty of a felony offense (reference to unauthorized use of a vehicle). [RR vol 5. pgs 11, lines 8-11]; and for the jury to base their verdict strickly on what they heard and what was legally admitted into evidence. [RR Vol 5. pgs 15-16, lines 24-25, 1]; after Mr.Hendrix untimely "oral" motion to suppress any

evidence after the traffic stop was denied. [RR Vol 4. pg 79, lines 18-21]. In the punishment phase, Mr.Hendrix advised the jury that he was not going to belabor (reference to advocate on behalf of Mr.Baladez defense). [RR Vol 5. pg 106, line 25]. Mr.Hendrix then urged the jury to consider all the evidence in both the innocent/guilt and punishment phases. [RR Vol 5. pg 105, lines 17-20]; because Mr.Baladez was horribly immature, terribly reckless, insensitive, callous and dangerous. [RR Vol 5. pg 107, lines 3-9]; by doing many incredible dumb things and "repeated them" on December 4, 2000. [RR Vol 5. pg 108, lines 2-22]; and the jury should consider a punishment to ensure Mr.Baladez was real old when he might get out. [RR Vol 5. pgs 109-110, lines 1-25, 1-3]. (See Mr.-Baladez State postconviction Application 11.07, No.01-1-6242-A; Grounds 2 and 6, with Supportive Brief pgs 2-16).

On December 23, 2014 the trial court concluded that there were no controverted, previously unresolved facts which needed to be resolved, and without conducting an hearing on trial counsel undisclosed actual conflict of interest(s); or the ineffective assistance of (trial and appellate) counsels claims, the Court of Criminal Appeals, Texas highest Court, agreed and denied habeas relief March 4, 2015.

Mr.Baladez declares under penalty of perjury (28 U.S.C. §1746), that the foregoing contentions are true and correct according to Mr.Baladez knowledge.

/s/ Sandro Baladez
Sandro Baladez

ARGUMENTS AND AUTHORITIES

ERRORS No.1:

1. DENIAL OF THE UNITED STATES SUPREME COURT PRIOR AND PREVIOUS FEDERAL LAWS-PRECEDENTS

Mr.Baladez contends this Court denial of No.17-6221 Petition For Writ of Certiorari is an error and miscarriage of justice because under the Anti-terrorism and Effective Death Penalty Act of 1996 (AEDPA), Section 2254(d)(2) and (2) authorizes federal courts to look beyond the one year statute limitations period when the State courts adjudication of a claim resulted in a decision that was contrary to, or involved an unreasonable application of clearly established, Federal laws as determined by the United States Supreme Court, or resulted in a decision that was based on an unreasonable interpretation of the facts in light of evidence presented in the state proceedings. 28 U.S.C.S. §2254(d)(1) and (2). See Williams v. Taylor, 529 U.S. at 395-397, 120 S.Ct. 1495, 1521-22, 146 L.Ed.2d 389 (2000); and Panetti v. Quarterman, 551 U.S. 930, 127 S.Ct. 2842, 2858, 168 L.Ed.2d. at 682 (2007)(AEDPA does not prohibit a federal court from finding an application of a principle unreasonable when it involves a set of facts different from those of the case in which the principle was announced...). State courts decision is contrary to this Court clearly established, Federal laws if it confronts a set of facts that are materially indistingishable from a decision of the U.S. Supreme Court and nevertheless arrives at a result different from its precedent. See Price v. Vincent, 538 U.S. 634, 123 S.Ct. at 1858, 155 L.Ed.2d 877 (2003).

Therefore, Mr.Baladez contends the State courts denial judgment involves contrary to, and or unreasonable application of clearly established, Federal laws as determined by the U.S. Supreme Court since the denial judgment signifies that courts addressed and rejected the merits of Mr.Baladez "Actual conflict of interest(s); and ineffective assistance of (conflict-free) counsel

see Ex parte Thomas, 953 s.w.2d 286 (Tex.Crim.App.1997), that should have been evaluated and investigated by trial court under the proper standards for measuring conflict of interest. See Von Moltke v. Gillies, 332 U.S. 708, 723-24, 68 S.Ct. 316, 92 L.Ed.2d 309 320-21 (1948), because this Court held that the standards for measuring effective waiver of a constitutional right, it requires waiver must be applied in all cases in which the underlying is a federal constitutional right. Fay v. Noia, 372 U.S. 391, 83 S.Ct. 822, 9 L.Ed.2d 837 (1963); Johnson v. Zerbst, 304 U.S. 485, 58 S.Ct. 1019, 82 L.Ed.-2d 1461 (1938), a valid waiver must be voluntary, knowingly and intelligently act done with sufficient awareness of the relevant circumstances and likely consequences. Brady v. U.S. 397 U.S. at 748, 90 S.Ct. at 1469, 25 L.Ed.2d 747, 756 (1970). And defendant that demonstrate an actual conflict of interest, violation of the 6th Amendment, "shifts the burden of proof to trial court to 'inquire' into the possibility of conflict"; and court of appeals that do not weigh the conflicting contentions under the proper legal standards, the judgment is vacated and the case remanded for further proceedings. See Cuyler v. Sullivan, 446 U.S. at 348-349, and 350, 100 S.Ct. at 1718, and 1719, 64 L.Ed.2d 333 (1980); see Strickland v. Washington, 466 U.S. at 692 (1984).

Mr.Baladez contends that even though he does not have a federal constutional right to either direct appeal or postconviction review, nevertheless, once such a remedy is granted by the state, its operations must conform to the due process requirements of the 14th Amendment. See Evitts v. Lucey, 469 U.S. at 400-01, 105 S.Ct. at 838-39, 83 L.Ed.2d 821 (1985); and Branch v. Turner, 37 F.3d at 374-75 (8th Cir.1994), which the state courts and this Supreme Court have not honor upon the face of Mr.Baladez pro se habeas contentions.

Therefore, Mr.Baladez contends the AEDPA one year limitations period is a

statute of limitations, not a bar to federal jurisdiction. See Davis v. Johnson, 158 F.3d at 807 (5th Cir.1998), and by the denial judgments of the appellate courts in violation of 28 U.S.C.S. §§2254(d)(1) and (2), a miscarriage of justice is prevailing against this Court principles and Mr.-Baladez federal rights especially by this Court Justices denial of certiorari of No.17-6221.

CONCLUSION

The United States Supreme Court late Justice Stewart held that more then 30 years ago this Court held that the "Fourteenth Amendment cannot tolerate a state conviction obtained by the knowing use of false evidence." See Miller v. Pate, 386 U.S. 1, 87 S.Ct. at 788, L.Ed.2d at 694 (1967); Mooney v. Holohan, 294 U.S. 103, 55 S.Ct. 340, 79 L.Ed.2d 791 (1935). There has been bo deviation from that established principle. Napue v. Illinois, 360 U.S. 264; Pyle v. Kansas, 317 U.S. 213; cf Alcorta v. Texas 355 U.S. 28. There can no retreat from that principle. And therefore, Mr.Baladez request this Court Justices to grant rehearing of No.17-6221 Petition For Writ of Certiorari for reenforcement of this Court and Congressional purposes, Federal laws and precedents for applicable habeas relief consistent with this Court's prior and previous precedents. Hey, I am an American citizen thats entitled to his Constitutional rights and to be heard right?

Respectfully submitting,

/s/ Sandro Baladez

Sandro Baladez #1146255
Gib Lewis Unit
777 FM 3497
Woodville, Texas 75990

Pro se Petitioner.

NO. 17-6221

IN THE

SUPREME COURT OF THE UNITED STATES

SANDRO BALADEZ, PETITIONER	)	
VS.	)	DENIAL OF PETITION FOR WRIT OF CERTIORARI ON 12/04/2017
LORIE DAVIS, RESPONDENT	)	

ORDER

The Supreme Court of the United States office of the Clerk denial order in the above entitled case.

ADDENDUM A.

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

December 4, 2017

Mr. Sandro Baladez
Prisoner ID #1116255
Gib Lewis Unit
777 FM 3497
Woodville, TX 75990

Re: Sandro Baladez
v. Lorie Davis, Director, Texas Department of Criminal Justice, Correctional Institutions Division
No. 17-6221

Dear Mr. Baladez:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,

Scott S. Harris

Scott S. Harris, Clerk

No.17-6221

IN THE

SUPREME COURT OF THE UNITED STATES

SANDRO BALADEZ,

PETITIONER,

VS.

LORIE DAVIS,

RESPONDENT.

CERTIFICATE OF UNREPRESENTED PARTY

Pursuant to S.Ct. Rule 44.1-2, Mr.Baladez declares under penalty of perjury (28 U.S.C. §1746), that the filing of this Rehearing Petition is in good faith based on federal laws and not for delays of this Court scheduled activities; and that Mr.Baladez is proceeding pro se and in forma pauperis pursuant to S.Ct. Rule 39.

Executed Dec, 20, 2017.

Respectfully Submitted,

/s/ Sandro Baladez

Sandro Baladez #1116255
Gib Lewis Unit
777 FM 3497
Woodville, Texas 75990

Pro se Petitioner.

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