IN THE

SUPREME COURT OF THE UNITED STATES

PIETRO ERNEST TERRELL

PETITIONER, No.17-6307

VS.

BONITA J. HOFFNER, Warden, et al.,

RESPONDENT.

PETITION FOR REHEARING
OF ORDER DENYING WRIT OF CERTIORARI

PIETRO ERNEST TERRELL, Petitioner pro se, pursuant to United States Supreme Court Rule 44, respectfully moves this Honorable Court and states that this Petition For Rehearing is restricted to the grounds specified in paragraphs 1 and 2 of Rule 44. And is presented in good faith and not for delay. The grounds here are limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented.

1. On December 11, 2017, this Honorable Court denied Petitioner's request for a Writ of Certiorari from the United States Sixth Circuit Court of Appeals March 24, 2017 order, denying Petitioner Terrell, appellate review and certificate of appealability and further denied rehearing on June 30, 2017.

2. In Petitioner Terrell's request to this Honorable Court for Writ of Certiorari, Petitioner presented the following question:

> WHETHER PETITIONER, AN AFRICAN-AMERICAN, DENIED DUE PROCESS AND EQUAL PROTECTION OF THE LAW WHERE HE WAS NOT TRIED BY A JURY OF HIS PEERS AS A RESULT OF SYSTEMATIC ERRORS IN THE KENT COUNTY, MICHIGAN, JURY MANAGEMENT SYSTEM CAN BE SUFFICIENTLY PRECLUDED FROM

FURTHER FACT FINDING ON THIS STRUCTURAL ERROR CLAIM, WHERE THE FEDERAL DISTRICT COURT AND SIXTH CIRCUIT COURT OF APPEALS DENIED APPELLATE REVIEW BECAUSE PETITIONER INVOLUNTARILY WAIVED REVIEW WHERE COUNSEL FILE GENERAL NONE-SPECIFIC OBJECTIONS TO MAGISTRATE'S "R&R" UNBEKNOWN TO PETITIONER?

Specifically, since Petitioner Terrell initially filed his Writ of Certiorari on September 18, 2017, there have been other substantial grounds not previously presented involving cases recently decided by other Circuit and District Courts that have decided contrary to the W.D. Michigan Federal Court and Sixth Circuit Court of Appeals regarding Fundamental Fairness and Structural Error.

4. Primarily, the cases of: Fournier-Olavarria v. United States, Civil No. 14-1351, United States District Court For The District of Puerto Rico, 1ST Circuit, 2018 U.S. Dist. LEXIS 9154, January 19, 2018, Decided, Filed; Odom v. Adger, No. 16-7552, United States Court of Appeals For The 4TH Circuit, 2018 U.S. App. LEXIS 1271, December 7, 2017, Argued January 19, 2018, Decided; Torres v. Roden, 2017 U.S. Dist. LEXIS 186817 (D. Mass. Nov. 13, 2017) 1ST Circuit District Court; Hayes v. Burt, 2018 U.S. Dist. LEXIS 3342 (E.D. Mich. Jan. 9, 2018) 2018 U.S. Dist. LEXIS 157318, 6TH Circuit Court of Appeals; Maxey v. Rivard, 2017 U.S. Dist. LEXIS 157318 (E.D. Mich. Sept. 26, 2017), 6TH Circuit Court of Appeals. These cases all reflect the same premise as in Petitioner Terrell's claim, in that, the United States Supreme Court has said structural errors "necessarily render a criminal trial fundamentally unfair", Neder v. United States, 527 U.S. 1, 9 (1999)(emphasis omitted), "defy analysis by harmless-error standards," and "affect the entire adjudicatory framework", Puckett v. United States, 556 U.S. 129,

141 (2009) (Citation and internal quotation marks omitted).

5. These above cases, not previously available to Petitioner Terrell, are substantial because the grounds that they present can have a controlling effect in Mr. Terrell's claim where, despite the unquantifiable nature of structural errors, the Sixth Circuit Court of Appeals concluded habeas petitioners with procedurally defaulted claims of structural error must nontheless show "actual prejudice." Ambrose I, 684 F.3d at 650-51.

6. These above cases: Fournier-Olavarria v. United States, Supra; Odom v. Adger, Supra; Torres v. Roden, Supra; Hayes v. Burt, Supra; and Maxey v. Rivard, Supra, all echo the significant legal developments that will alter the Sixth Circuit Court of Appeals and other District and Circuit Courts view of whether "reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." Slack v. McDaniel, 429 U.S. 473, 484 (2000). And ultimately, affect the decisions below in Mr. Terrell's case.

7. These above cases, as did Mr. Terrell, relied on the recent decision of this Court in Weaver V. Massachusetts, 137 S.Ct. 1899, 1907, 198 L.Ed.2d 420, (Decided, Filed, June 22, 2017), where the Supreme Court rejected a categorical approach to structural errors that treats all structural errors the same. See id. at 10 ("Despite its name, the term 'structural error' carries with it no talismanic significance as a doctrinal matter."). Instead, defendants must show "either a reasonable probability of a different outcome in his or her case" or "that the particular violation rendered his or her trial fundamentally unfair." Id. at 12.

8. Thus, Mr. Terrell's case requires an examination of the proper application of the doctrines of Structural Error and Involuntary Waiver. They are intertwined with the above cited cases where the reason an error is deemed structural may influence the proper standard used to evaluate an involuntary waiver claim premised on the failure to make a specific objection error where a structural error exist.

IN CONCLUSION

A host of questions flow from the Weaver decision and it's affect on the above cited cases and it's ultimate effect on Mr. Terrell's decisions below. Thus, granting this Petition for Rehearing would be the first step in resolving the issue where an error deemed Structural, influences the proper Standard used to evaluate a claim, as here in Mr. Terrell's case: (Involuntary Waiver), premised on the failure to make a specific objection error, where a structural error exist.

THEREFORE, Petitioner Terrell respectfully prays that a Petition for Rehearing issue.

Dated: January 25, 2018.

Respectfully Submitted,

By: Pietro Ernest Terrell

Pietro Ernest Terrell
MDOC No. 140303
In Propria Persona
Lakeland Correctional Facility
141 First Street
Coldwater, Michigan 49036

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