

EXHIBIT A

IN THE U.S. C.O.A., FOR THE 11TH CIRCUIT

EGGERS, APPELLANT

V
ALABAMA, APPELLEE

ON APPEAL FROM THE U.S.D. CT. N.D. ALA.
CASE # 2:13-CV-01460-LSC

DATE: 01-02-2018

U.S. COURT OF APPEALS
RECEIVED
CLERK
JAN 05 2018

EGGERS PRO SE RESPONSE IN
OPPOSITION TO FORMER A/C
PETITION FOR A REHEARING
EN BANC DATED 12-26-2017

ATLANTA, GA

TO THE HONORABLE CLERK OF THE COURT:

NOW COMES EGGERS, IN A PRO SE CAPACITY,
PROVING A RESPONSE IN OPPOSITION TO FORMER A/C, RECENTLY
FILED PETITION FOR A REHEARING EN BANC DATED 12-26-17.

EGGERS RECEIVED A COPY OF THE PETITION FOR
A REHEARING ON 12-29-2017.

AN EN BANC REHEARING IS NOT WARRANTED AND
FORMER A/C PETITION SHOULD BE DENIED FOR THE FOLLOWING
REASONS:

1. FORMER A/C, (A/C), AS A CAPITAL LITIGATION LAW FIRM,
MAINTAINING AN ACTUAL CONFLICT OF INTEREST, WHOLLY DIVERSE
FROM THAT OF EGGERS, HAVE LOST THEIR OBJECTIVITY, ALLOWING
THEIR PERSONAL FEELINGS, FALSE BELIEFS, CLOUDED PROFESSIONAL
JUDGMENT AND PREJUDICES HINDER THEIR ABILITY TO: EFFECTIVELY
REPRESENT EGGERS VOICE, ACCURATELY INTERPRET, ACCEPT AND
DEAL WITH THE TRUE FACTS AND EVIDENCE FOUND BY THE COURTS.
2. THIS IS EVIDENT THROUGH A/C MEANINGLESS PERPETUAL
LITIGATION OF COMPETENCY ISSUES INCITED BY THE STATE AND
FEDERAL GOVERNMENTS UNLAWFUL SUPPRESSION OF FAVORABLE
RECORDS MATERIAL TO THE ISSUES AT THE TIME OF TRIAL.
3. A/C ABANDONED EGGERS FEDERAL CLAIMS, (CLAIMS), WITHOUT
HIS KNOWLEDGE AND WRITTEN CONSENT, BRADY, MIRANDA, EDWARDS,
I. A.C. AT TRIAL, 4TH AMENDMENT CLAIMS ETC, REFUSING TO
CHALLENGE THE FACTS AS DETERMINED BY THE A.C.C.A.
4. THE MAJORITY OPINION RENDERED ON 12-05-2017 IS NOT
CONTRARY TO PEES V PERDUE NOR WHITMORE V ARKANSAS,
AND WAS BASED UPON AN ACCURATE REVIEW OF A LENGTHY

RECORD, (EDGERS v. AA, #16-10785-P/16-10805-P, WESTLAW 6014358 @ 3, (11TH CIR. 2017).

5. AIC VERSION OF THE FACTS, PROCEDURAL, HISTORICAL AND OTHERWISE IS INACCURATE, (SEE DOC. 20, URA (I-X), SEE ALSO DOC. 75), A SUBSIDIARY ISSUE.

6. FOR EXAMPLE, EDGERS ALLEGED 2001 CONFESSIONS WERE FALSE AND INVOLUNTARY, THE PRODUCT OF SPECIAL AGENT GABRIEL MARIANO'S, U.S.F.B.I. COERCION, AND SUGGESTIONS, CONSISTENT WITH THE PAST UNLAWFUL ACTS, OMISSIONS, ~~AND~~ GROSS CRIMINAL NEGLIGENCE, CUSTOMS, PRACTICES AND POLICIES IN PROSECUTION COMMITTED BY THE U.S.F.B.I. WHEN DEALING WITH EDGERS IN SIMILAR CIRCUMSTANCES, CHARGING EDGERS WITH MURDER ON OR ABOUT MARCH 05, 1985, COMPELLING EDGERS TO PROVIDE INVOLUNTARY INFORMATION AND SERVICES AS A CONFIDENTIAL INFORMANT IN A FEDERALISM EFFORT WITH THE SAN BERNARDINO COUNTY SHERIFFS DEPARTMENT, (DOC. 20, URA (IX), EX. 73-75, 908-911).

7. THE STATE NOW ADMITS TO EDGERS PAST CRIMINAL EXPERIENCES WITH THE U.S.F.B.I. AS THE STATES LEAD INVESTIGATORS, (DOC. 162), AND THE DIST. FOUND EDGERS NOT TO BE DELUSIONAL ABOUT EDGERS PAST CRIMINAL EXPERIENCES, (DOC. 173), QUOTING THE STATE'S PAST COMPETENCY HEARING BRIEF VERBATIM. AFFIRMED ON 12-05-17.

8. AIC FALSELY CLAIMED EDGERS TO BE DELUSIONAL ABOUT HIS PAST EXPERIENCES, PERSISTING IN THIS FALSE CLAIM EVEN IN THE LIGHT OF THE STATE'S EXPRESS DECLARATIONS, WHICH IS UNEXPLAINABLE. THE TRUTH SUPPORTS EDGERS CLAIMS, NOT AIC FALSE CLAIMS.

9. WHEN AN INVOLUNTARY FALSE CONFESSION CLAIM IS PRESENTED THE ONLY ONE WHO KNOWS THE ACTUAL TRUTH IS THE DEFENDANT.

10. HE MUST PRESENT THE CLAIM IN A PRO RE CAPACITY OR CONFIDE IN AIC WHO SHALL ZEALOUSLY PLEAD THE FACTS ON HIS BEHALF, DEMANDING RECORDS TO PROVE INNOCENCE.

11. AIC, IN A COMPROMISING POSITION MUST OVERCOME THE OVERWHELMING EVIDENCE PROVING GUILT WHICH WAS DERIVED FROM U.S.F.B.I. OFFICIAL MISCONDUCT.

12. EDGERS CONFIDED IN AIC, WHO AGREED TO PRESENT EDGERS CLAIMS, HOWEVER, AIC THEN BETRAYED EDGERS CONFIDENCE ENTRUSTED TO AIC ABANDONING EDGERS, HIS CLAIMS, CONCERNING FACTS AND EVIDENCE WHICH WOULD SUBSTANTIATE EDGERS' INNOCENCE OF CAPITAL MURDER, FAILING TO PURSUE EDGERS CRIMINAL RECORDS.

13. THE ISSUE IS NOT WHETHER EDGERS TOOK THE LIFE OF AN INNOCENT PERSON, THE ACTUAL QUESTIONS ARE: (A) WHETHER OR NOT EDGERS FALSE CONFESSIONS WERE THE PRODUCT OF U.S.F.B.I. OFFICIAL MISCONDUCT COERCION, (B) IF THE U.S.F.B.I. WERE LEAD INVESTIGATORS FOR THE STATE, (DOC. 20, URA (IX), EX. 92), (C) IF THE STATE AND FEDERAL GOVERNMENT UNLAWFULLY SUPPRESSED FAVORABLE RECORDS MATERIAL TO THE ~~ISSUE~~ INVOLUNTARY ISSUE OF EDGERS'

EXTRAJUDICIAL STATEMENTS AT THE TIME OF TRIAL SUPPRESSION HEARING, (D) IF SUCH UNLAWFUL SUPPRESSION BY THE U.S.F.B.I. RENDERED THE STATE SUPPRESSION HEARING UNFAIR IN VIOLATION OF EGGERS' DUE PROCESS RIGHTS UNDER THE 14TH AMENDMENT TO THE U.S. CONSTITUTION, (E) IF EGGERS INVOLUNTARY STATEMENT WAS UNLAWFULLY ADMITTED AT THE TIME OF TRIAL IN VIOLATION OF THE 5TH AMENDMENT TO THE U.S. CONSTITUTION, (F) WHETHER OR NOT A HARMLESS ERROR ANALYSIS HAS EVER BEEN CONDUCTED IN ACCORD WITH ARIZONA V FULMINANTE, _____ U.S. _____, AS DETERMINED BY THE U.S.S.C.T., AND (G) WHETHER OR NOT THE STATE PRESENTED ANY EVIDENCE PROVING THAT EGGERS MURDERED BENNIE FRANCIS MURRAY INDEPENDENT FROM EGGERS INVOLUNTARY FALSE CONFESSIONS.

14. AIC COULD NOT OVERCOME THEIR PREJUDICES AGAINST EGGERS,

15. IT IS CRITICAL TO NOTE THAT THE A.C.C.A. FOUND THAT EGGERS' PAST EXPERIENCES WITH LAW ENFORCEMENT WAS AN ELEMENT TO CONSIDER WHEN THE STATE COURTS RENDERED A DETERMINATION ABOUT WHETHER OR NOT EGGERS ALLEGED CONFESSIONS PROVIDED TO LAW ENFORCEMENT WERE VOLUNTARY, (EGGERS V STATE 914 So. 2d 885, (2005 ACCA)).

16. THE STATE AND FEDERAL GOVERNMENT OBSERVED THE SIGNIFICANCE OF EGGERS' PAST EXPERIENCES WITH THE U.S.F.B.I. UNLAWFULLY SUPPRESSING THE RECORDS AT TRIAL, HINDERING EGGERS' DEFENSE RENDERING STATE SUPPRESSION HEARING UNFAIR, CREATING A SILENT RECORD, PROTECTING THE UNLAWFULLY OBTAINED CONFESSION, ENSURING THAT IT WAS ADMITTED AT TRIAL AND EGGERS' CONVICTION FOR CAPITAL MURDER.

17. THE UNLAWFUL SUPPRESSION OF FAVORABLE RECORDS IS IN AND OF ITSELF A PROCEDURAL HARM EXCEPTION THAT OVERCOMES ADEQUATE AND INDEPENDENT STATE GROUNDS AND APPLICABLE ANTI-TERRORIST EFFECTIVE DEATH PENALTY ACT CAUSES, TITLE 28 U.S.C. § 2254(c)(1)(2), AS AN EXTERNAL U.S.F.B.I. FORCE NOT ATTRIBUTABLE TO EGGERS, CAUSING TRIAL COUNSEL AND APPELLATE COUNSEL A SIGNIFICANT INABILITY TO SUFFICIENTLY READ AND PROVE EGGERS' CLAIMS, CAUSING EXTRAORDINARY UNDUPE PREJUDICES PLACING EGGERS IN AN ACTUAL DISADVANTAGE. (SEE DOC. 20, 75)

18. EGGERS' COLORABLE CLAIMS WERE EXHAUSTED IN THE STATE P.C. COURTS, ALL THE WAY TO THE A.S.C.T., AND IN THE FEDERAL D.C.T., (DOC. 75), IN A PRO SE CAPACITY, ONE FULL ROUND.

19. AIC ACKNOWLEDGES THAT THE D.C.T. FAILED TO THOROUGHLY ADDRESS EGGERS' PRO SE CLAIMS, (SEE AIC PETITION FOR REHEARING EN BAUC @ 6 LINES 10-12).

20. THIS IS ALSO EVIDENT BY THE D.C.T. ORDER OF DISMISSAL, (DOC. 134 @ 154 FIN 14), WHEREIN THE D.C.T. ERRONEOUSLY FOUND:

"EGGERS DOES NOT CHALLENGE THE FACTS FOUND BY THE ACCA IN THIS PROCEEDING"
... (SEE DOC. 75).

21. NOTE, THIS IS NOT A PRO SE INITIATED PETITION, WHEREIN EGGERS IS ATTEMPTING TO RESTATE HIS APPEALS OR WITHDRAW HIS ALLEGED WAIVER. IT IS A RESPONSE TO ALC PETITION.
22. IF EGGERS IS GOING TO BE UNLAWFULLY DETAINED IN A TRIO CELL WHILE ALC PERPETUATES LITIGATION UPON MEANINGLESS FALSE COMPETENCY CLAIMS, FOR INADEQUATE UNDETERMINED PERIODS OF TIME AS THE FEDERAL COURTS FAIL TO ENFORCE TIMELY RESOLUTION FOR CAPITAL CASE STATUTES UNDER TITLE 28 USC 3226, ~~RENEWING~~ EGGERS WAIVER OF APPEALS MEANINGLESS, THEN EGGERS IS GOING TO PRESENT HIS ARGUMENTS WHICH LED TO THESE EXTRA-ORDINARY PROCEDURAL POSTURE/ROLLERCOASTER RIDES.
23. EGGERS WAIVER AND PLEADINGS ARE NOT AMBIGUOUS, ARE MADE IN GOOD FAITH AND ARE NOT DECEITFUL.
24. EGGERS BELIEVES THAT THE FEDERAL COURTS ARE LIKE UMPIRES, HAVING A DUTY TO ENFORCE THE RULES OF THE GAME, SANCTIONING THE PARTY WHO IS CAUGHT BREAKING THE RULES IN ACCORD WITH CONTROLLING LAWS.
25. THE STATE, BY THEIR OWN EXPRESS WRITTEN DECLARATIONS IN POST DISMISSAL OF EGGERS HABEAS PETITION, (DOC. 162), BROKE THE RULES, MANDATING THIS C.O.A. TO CONDUCT A MISCARRIAGE OF JUSTICE ANALYSIS, REVERSING EGGERS CONVICTION.
26. THE D.C.T. MADE THIS OBSERVATION, YET, FAILED TO DO HIS DUTY, FAILING TO PROVIDE A COMPREHENSIVE RULING ON EGGERS CLAIMS.
27. EXPOSING A CHEATER CREATES A MORE JUST ENVIRONMENT, PREVENTING THE PARTY FROM CHEATING OTHERS IN THE FUTURE, DISCOURAGED BY SANCTIONS ENFORCED.
28. THE FEDERAL COURTS HAVE REFUSED TO BLOW THE OFFICIAL WHISTLE, NOR ENFORCE SANCTIONS, FAVORING EGGERS PRO SE WHISTLE BLOWING.
29. EGGERS IS NOT THE ONLY ONE INJURED IN THIS CASE, THE VICTIMS FAMILY IS ALSO INJURED BY AND THROUGH THE STATE AND FEDERAL GOVERNMENTS UNLAWFUL CONCEALMENT OF FEDERAL CRIMINAL RECORDS CREATED UPON EGGERS, AS SUCH RECORDS WOULD SUBSTANTIATE THAT THE U.S.F.B.I.'S ORIGINAL WILLFUL ACTS, OMISSIONS AND GROSS CRIMINAL NEGLIGENCE IN AN INVOLUNTARY SPECIAL RELATIONSHIP WITH EGGERS WAS THE PROXIMATE CAUSE FOR EGGERS MENTAL STATE AT THE TIME OF THE UNLAWFUL DEATH OF BENNIE FRANCIS MURRAY, THEREBY EXPOSING THE UNITED STATES TO A CIVIL PROSECUTION.
30. 17 YEARS AFTER THE DEATH OF BENNIE FRANCIS MURRAY, THE STATE NOR FEDERAL GOVERNMENT HAVE TOLD THE VICTIMS FAMILY THE TRUE FACTS. EGGERS CANNOT ASSEET THE VICTIMS RIGHTS FOR THEM.
31. DUE TO THE STATE AND FEDERAL GOVERNMENTS "FRAUD", THIS CIVIL PROSECUTION IS NOT TIME BARRED, AS THE TIME TO FILE A CLAIM DOES NOT BEGIN TO TICK UNTIL AFTER THE INJURED PARTY DISCOVERS THAT THEY HAVE A CLAIM, SUBJECT TO ADEQUATE TOLLING PERIODS IN ACCORD WITH LAW.
32. THIS UNLAWFUL DEATH PROSECUTION IN THE CIVIL COURTS COULD BE MAINTAINED REGARDLESS OF THE OUTCOME OF EGGERS CRIMINAL APPEALS AND/OR RETRIAL/EXECUTION.
33. THE STATE OF ARIZONA HAS DEMONSTRATED INVIDIOUS

DISCRIMINATION, ARBITRARILY DISCARDING FACTS AND EVIDENCE TO FAMILY MEMBERS OF LAW ENFORCEMENT OFFICIALS TO ENSURE CIVIL PROSECUTION AGAINST THE EMPLOYER OF BENITO ALBARRAN, A MEXICAN RESTAURANT IN MADISON COUNTY, ARABAMA, WHERE A JURY AWARDED \$7.5 MILLION DOLLARS IN DAMAGES.

34. HOWEVER, IN EGGERS CASE, THE STATE AND FEDERAL GOVERNMENT CONCEALED EGGERS PAST CRIMINAL AND PSYCHOLOGICAL RECORDS IN AN EFFORT TO: (A) ENSURE EGGERS INVOLUNTARY FALSE CONFESSIONS WERE ADMITTED AT TRIAL, (B) ENSURING AN UNLAWFUL CONVICTION FOR CAPITAL MURDER, (C) DENYING EGGERS OF FULL, FAIR COMPETENCY EVALUATIONS ~~BY~~ BY CONCEALING NECESSARY FACTS AND DATA FROM PSYCHOLOGICAL EXPERTS NEEDED TO PROVIDE REliable EXPERT OPINIONS, WHILE SILENCING THE U.S.F.B.I. FROM CIVIL PROSECUTION BY THE VICTIMS NEXT OF KIN.

35. WITHOUT QUESTION, THE STATE, U.S.F.B.I. AND THIS COURT SAW AND SEE THE SIGNIFICANCE OF EGGERS CLAIMS AND HOW THE ALLEGED FAVORABLE RECORDS WERE AND ARE MATERIAL TO THE ISSUES AT TRIAL AND A CIVIL PROSECUTION IN A WRONGFUL DEATH.

36. MOREOVER, AIC SAW THE SIGNIFICANCE, NEVER THE LESS WAIVED EGGERS CLAIMS WITHOUT WRITTEN CONSENT.

37. THE STATE NOW MAKES THEIR EXPRESS DECLARATION IN AN EFFORT TO ENSURE THAT EGGERS IS FOUND COMPETENT, NOT DELUSIONARY, ABLE TO WAIVE HIS CONSTITUTIONAL APPEALS AND MOVE FORWARD TO HIS EXECUTION, KILLING THE ONLY WITNESS WITH THE COURAGE TO TESTIFY AGAINST THE UNITED STATES IN THE CIVIL ACTION IF PURSUED BY THE NEXT OF KIN TO BENNIE FRANKS MURRAY, IF ANY REMAIN ALIVE.

38. THE FEDERAL COURTS HAVE FAILED TO HOLD THE STATE AND UNITED STATES TO ANSWER TO A HIGHER AUTHORITY, "JUSTICE".

39. THOUGH THESE SUBSIDIARY ISSUES WERE PRESENTED TO THE PANEL BY EGGERS IN A PRO SE CAPACITY, THE C.O.A. FAILED TO ADDRESS THEM, BUT DID ACKNOWLEDGE EGGERS PAST INVOLUNTARY RELATIONSHIP WITH THE U.S.F.B.I., (SEE EGGERS V AL., 16-10785-P / 16-16805-P, (11TH CIRCUIT 2017) @ 21, 23, 27-28). DECEDENT LITIGATION.

40. AIC FAILS TO ADDRESS THIS C.O.A. FAILURE TO ADDRESS EGGERS PRO SE ISSUES PRESENTED WITHIN THEIR PETITION FOR A REHEARING EN BANC, ANTICIPATING EGGERS TO DO SO, ASSERTING HIS INCOMPETENCE.

41. IN THE ALTERNATIVE, AIC PERPETUALLY DIRECTS THIS COURTS ATTENTION TO EGGERS PAST JUDGMENT PLEADINGS, FALSELY CLAIMING THAT THEY EVIDENCE EGGERS INTENT TO CONTINUE PURSUING HIS APPEALS AS A PRO SE LITIGANT, THEREFORE, EGGERS MUST BE IRRATIONAL, A SYMPTOM OF EGGERS ALLEGED INCOMPETENCE.

42. AIC CITES THREE DOCUMENTS, COMPLETELY MISINTERPRETING THE PLEADINGS TAKING THEM OUT OF CONTEXT IN RELATION TO THE SPECIFIC STAGE OF PLEADING AND PURPOSE TO BE ACCOMPLISHED BY SUCH FILINGS:

* A) EGGERS 01-23-2017 MOTION FOR PRODUCTION, (SEE AIC PET. FOR RE'N @ 6)

AIC FALSELY CLAIMS THAT THEIR CASE FILE WAS NOT RELEVANT TO COMPETENCY ISSUES NOR EGGERS ABILITY TO SUFFICIENTLY RESPOND TO AIC LETTER BRIEF, WHERE AIC MADE VOLUMINIOUS CITATIONS OF THE RECORD ON APPEAL, TO WHICH EGGERS DOES NOT HAVE A COPY IN HIS POSSESSION, (DOC. 155 @ 89).

AIC NEVER DISCUSSED THE CITED EVIDENCE OR PRO SE READING, MAKING A BARE ASSERTION THAT IT PROVED THAT EGGERS WAS INCOMPETENT.

AIC DELIBERATELY MISINTERPRETS DOCUMENTS, WHICH THE D.C.T. DID NOT PERMIT AIC TO DO AT THE COMPETENCY HEARING, (DOC. 155 @ 145-166, AND @ 174).

AIC DELIBERATELY FAILS TO CITE PORTIONS WHERE EGGERS PROVIDED CLEAR AND UNEQUIVOCAL WAIVERS, (DOC. 42), AT WHICH TIME EGGERS SPECIFICALLY INFORMED THE COURT THAT IF EGGERS WAS OBLIGATED TO MOVE FORWARD WITH AIC, THEN EGGERS WOULD WAIVE ALL FUTURE APPEALS, DUE TO AIC CONCEALING FACTS AND EVIDENCE FROM EGGERS, (DOC. 31, 34, 38, 39, 42, 45, 47, 49, 55, 60, 63, 68-69).

THE D.C.T. LATER FOUND THAT AIC HAD IN FACT CONCEALED FACTS AND EVIDENCE FROM EGGERS, (DOC. 173 @ 34), REVEALED THROUGH THE TESTIMONY OF AIC EXPERT, DR. BENEDICT, (DOC. 155 @ 64), WHO FURTHER STATED THAT HE WOULD NEED TO EXAMINE EGGERS PAST CRIMINAL RECORDS CREATED BY THE U.S.F.B.I. AND S.B.C.S.O. IN ORDER TO PRODUCE AND PROVIDE A RELIABLE EXPERT OPINION, (DOC. 155 @ 81-83, 101-102), AS THE EXPERT CONSIDERED EGGERS INVOLUNTARY FALSE CONFESSION IN FORMING THE BASIS OF HIS OPINION, (DOC. 155 @ 65). * EGGERS WAIVED APPEALS *

AGAIN, THE STATE AND FEDERAL GOVERNMENTS' UNLAWFUL SUPPRESSION OF FAVORABLE RECORDS DENIED EGGERS OF A FULL AND FAIR COMPETENCY EVALUATION, PREVENTING EXPERTS FROM PROVIDING RELIABLE OPINIONS, IN FEDERAL HABEAS CORPUS PROCEEDINGS.

AIC FAILS TO READ THIS FACT TO THE C.O.A. AT ANY TIME.

THE D.C.T. FOUND DR. BENEDICT NON-CREDIBLE AND HIS OPINION UNRELIABLE, (DOC. 173), ERRONEOUSLY FINDING THAT THE VERACITY OF EGGERS COERCED FALSE CONFESSION, CONSIDERED BY ALL EXPERTS WHO HAVE EXAMINED EGGERS. IN FORMING THE BASIS OF THEIR OPINION WAS NOT MATERIAL, (DOC. 155 @ 111-113), WHEN EGGERS CROSS EXAMINATION OF THE PROFFERED OPINIONS RAISED BY THE STATE ON DIRECT, OPENED THE DOOR TO THE ALLEGED CONFESSIONS, (DOC. 155 @ 65-67).

OBVIOUSLY, AIC CASE FILE INVESTIGATION RECORDS, AND EVIDENCE PRESENTED TO THE EXPERT TO AID IN FORMING HIS OPINION WAS MATERIAL TO COMPETENCY ISSUES ON APPEAL BEFORE THIS COURT.

OBVIOUSLY, AIC REFUSING TO PROVIDE TO EGGERS COPIES OF THE RECORD HINDERED EGGERS OWN ABILITY TO SUFFICIENTLY READ AND PROVE HIS CLAIMS DISPROVING AIC FALSE ALLEGATIONS MADE IN VIOLATION OF F.R.B.V. PROC., RULE 11, PRESENTED IN AIC LETTER BRIEF TO THE C.O.A.

MOREOVER, NO STATE OR FEDERAL COURT HAS EVER PROVIDED EGGERS WITH A CERTIFIED COPY OF THE RECORD, DENYING ANY AND ALL OF HIS REQUESTS/MOTIONS FOR PRODUCTION IN VIOLATION OF EGGERS' DUE PROCESS RIGHTS AND EQUAL PROTECTION RIGHTS UNDER THE 5TH AND 14TH AMENDMENTS TO THE U.S. CONSTITUTION, FEDERAL HABEAS CORPUS STATUTES AND CONTROLLING LAWS AS DETERMINED BY THE U.S.S.C.T. (TITLE 28 USC § 2241-2254; DOC. 153 AT 158-159, DOC. 20, DOC. 30).

EGGERS HAS EVEN OFFERED TO PAY FOR A COPY OF THE RECORD, (P.C.R. CASE ACTION SUMMARY 04-2009 AND 05-2009)

HOW AIC FALSELY BELIEVES THAT A COPY OF THE RECORD IS NOT NECESSARY IS CONTRARY TO SOUND AMERICAN JURISPRUDENCE, EGGERS' INABILITY TO OBTAIN A CERTIFIED COPY OF THE RECORD IS AND WAS A CONTRIBUTING FACTOR CONSIDERED BY EGGERS ON HIS DECISION TO WAIVE HIS FUTURE APPEALS, EXAMINING HIS AVAILABLE LEGAL OPTIONS ON HOW TO PROCEED.

PRODUCING A COPY NOW, 17 YEARS LATER, DOES NOT CORRECT THE PREJUDICE SUFFERED.

WITHOUT A COPY OF THE RECORD, EGGERS COULD NOT FILE THE 60(D) MOTION WHICH THE D.C.T. INFORMED EGGERS THAT HE COULD DO AFTER THE APPEAL TO THE C.O.A. WAS WITHDRAWN, (DOC. 155 AT 154-157).

AIC REFUSES TO SURRENDER A COPY TO EGGERS, EVEN AT THIS CURRENT STAGE.

A SPANISHMAN WOULD NEVER CONSIDER GOING TO THE U.S. WITHOUT A RACKET, NOR COULD HE SAILING TO AMERICA WITHOUT A SHIP. THEY BOTH REQUIRED GOVERNMENT FACILITATION TO EFFECTIVELY ACCOMPLISH SAID GOALS.

THE STATE AND FEDERAL COURTS DENYING EGGERS OF A COPY OF THE RECORD HAS DENIED EGGERS ADEQUATE, EFFECTIVE AND MEANINGFUL ACCESS TO THE COURTS AND ITS FACT DEVELOPING PROCEDURES.

DENYING EGGERS OF HIS RIGHT TO PETITION, DUE PROCESS AND EQUAL PROTECTION, HINDERING EGGERS FROM SUFFICIENTLY PLEADING AND PROVING HIS CLAIMS IN AN OBVIOUS DYSFUNCTIONAL CRIMINAL JUSTICE SYSTEM.

AIC WON'T HEAR EGGERS NOR PROVIDE A COPY SO AS HE MAY HEAR HIMSELF AS AIC AIDED IN STACKING THE DECK AGAINST EGGERS.

(B) AIC CITES EGGERS' 10-18-2017 PETITION FOR A WRIT OF HABEAS CORPUS AGAINST THE C.O.A. PANEL. FILED IN THE U.S.S.C.T., (SEE AIC PET. FOR RE'N EN BANC, AT 7), FALSELY CLAIMING THAT SUCH A PLEADING IS EVIDENCE OF EGGERS' INABILITY TO MAKE A RATIONAL DECISION, BECAUSE EGGERS PRESENTED A SUBSIDIARY ARGUMENT ON PREJUDICE SUFFERED BY EGGERS, DERIVED FROM INORDINATE DELAYS OF BOTH THE STATE AND FEDERAL COURTS.

A CURSORY EXAMINATION OF EGGERS' HABEAS CORPUS PETITION AT 4-7 THROUGH 4-10 BY THIS COURT SHALL DEMONSTRATE THAT AIC HAS DELIBERATELY MIS-STATED AND MIS-INTERPRETED EGGERS' PLEADING TO THIS COURT.

EGGERS' HABEAS CORPUS PETITION IS STILL PENDING IN THE U.S.S.C.T. (SEE IN RE EGGERS, #17-6390), EVEN THOUGH THIS C.O.A. ENTERED THE 12-05-2017 RULING, RESOLVING THE COMPETENCY ISSUES, SUGGESTING MOOTNESS, THE U.S.S.C.T. MAY STILL FIND SUBSIDIARY ISSUES ALIVE, GRANTING THE WRIT AND RELIEF REQUESTED, THOUGH EGGERS DOES NOT EXPECT THIS.

BECAUSE THE ACTION IS STILL PENDING, AN ARRAY OF POTENTIAL AVAILABLE LEGAL OPTIONS MAY EXIST WHICH EGGERS MAY NEED TO MAKE A DECISION UPON, DEPENDING UPON HOW THE U.S.D.C. DISPOSES OF EGGERS' HABEAS CORPUS PETITION.

AIC FAILS TO ACKNOWLEDGE THAT WHEN A COURT ENTERS A RULING, A PARTY MUST RE-EXAMINE THE FACTS, PLAN A COURSE OF ACTION AND EXECUTE THE PLAN IN ACCORD WITH THE HOLDING OF THE COURT WHICH MAY ALTER OR REVERSE ALL ACTIONS BELOW.

EGGERS ADMITTINGLY ASSESS THIS TO BE RATIONAL AND AIC PROFESSIONAL JUDGMENT TO BE EFFECTIVE AS THEY ARE ONE TRACK MINDED, MAINTAINING AN ACTUAL CONFLICT OF INTEREST, EXCLUSIVELY PURSUING COMPETENCY CLAIMS WHILE DELIBERATELY CREATING UNNECESSARY DELAYS; REFUSING TO INVOLVE TITLE 28 USC § 2266, (SECTIONS), FACILITATING FURTHER DESTRUCTION OF FAVORABLE RECORDS MATERIAL TO EGGERS' CONVICTION CLAIMS, AS THEY EFFECTIVELY PRESENT SENTENCING ISSUES REJECTED BY THE D.C.T., (DOC. 134).

THE STATE ATTORNEY GENERAL'S TARDY EXPRESS DECLARATION, (DOC. 162), IS OVERWHELMING EVIDENCE WHICH PROVES THAT UNFAIRLY APPOINTED COUNSEL'S ABILITY TO SUFFICIENTLY PLEAD AND PROVE A DEFENDANT'S FEDERAL CLAIMS AT EVERY STAGE FROM TRIAL TO FEDERAL HABEAS CORPUS, TO EXECUTION. (SEE BRADY V. MARYLAND, — U.S. —).

(C) AIC CITES A POST JUDGMENT MOTION FILED BY EGGERS IN THE D.C.T., (DOC. 174-175), (SEE AIC PET. FOR RE'HEAR EN BANC AT 6, FN #34), FAIRLY CLAIMING THESE DOCUMENTS PROVE EGGERS' INTENT TO CONTINUE LITIGATING HIS APPEAL AS A PRO SE LITIGANT, MIS-INTERPRETING THE PLEADINGS.

DOC. 174-175 WERE MOTIONS FOR THE PRODUCTION OF AIC CASE FILE, (NOT ATTACHED TO AIC PET. FOR RE'HEAR EN BANC).

EGGERS WAS IN THE MIST OF ANOTHER APPLICATION FOR A WRIT OF HABEAS CORPUS BEFORE THE U.S.D.C., (IN RE EGGERS, # 2016), FACING THE EXACT SAME CIRCUMSTANCES STATED ABOVE ON PAGES 7-8, ¶ (B).

THE D.C.T. ENTERED A CONTREBANCY RULING, (DOC. 173) THEREBY MOTING HABEAS CORPUS, HOWEVER, IT WAS NOT IMMEDIATELY DISMISSED BY THE U.S.D.C.

EGGERS BELIEVED THAT HE WOULD NEED A COPY OF THE RECORD NECESSARY FOR SUFFICIENT FUTURE PLEADINGS. IN THE U.S.D.C., (OR OTHER D.C.T.), HOWEVER, IN ACCORD WITH APPLICABLE RULES, EGGERS WOULD FIRST NEED TO REQUEST SUCH RECORDS FROM THE D.C.T. BEFORE EGGERS COULD MOTION THE U.S.D.C. TO ISSUE AN ORDER OF PRODUCTION.

AGAIN, EGGERS DID NOT BELIEVE THE D.C.T. ORDER MOTED HABEAS CORPUS ISSUES NOR THE RELIEF REQUESTED.

AIC HOPES THAT THIS COURT SHALL SIMPLY TAKE AIC WORD, FAILING TO EXAMINE THE CITED PLEADINGS, GRANTING AIC PETITION FOR A REHEARING EN BANC.

44. AIC FAILS TO INFORM THE COURT THAT EGGERS HAS FILED REPEATED MOTIONS TO EXPEDITE EGGERS EXECUTION IN THE ALABAMA SUPREME COURT, IN NOVEMBER AND DECEMBER 2017, EX PARTE EGGERS, #1040344, AND THAT THE STATE OF ALABAMA FILED A SIMILAR MOTION REQUESTING THAT AN EXECUTION DATE BE SET ON 12-20-2017, IN ACCORD WITH A.S.C.T. ORDER DATED 11-29-2017, (SEE EX. A, ATTACHED, SEE ALSO EX. B, ATTACHED) ~~THE~~
45. NO LIVE CONTROVERSY EXISTS, (C.D.A. ORDER @ 43)
46. EGGERS HAS NOT FILED A RULE 60(b) MOTION IN THE D.C.T., WHICH WOULD SUBSTANTIATE AIC CLAIM, THAT EGGERS IS PURSUING APPEALS. NOR HAS EGGERS FILED ANY OTHER MOTION IN FEDERAL COURTS.
47. AIC HAS ERRONEOUSLY MISINFORMED EGGERS THAT A RULE 60(b) MOTION COULD NOT BE FILED IN THE D.C.T. CONTRARY TO JUDGE COOPER'S INSTRUCTIONS TO EGGERS AT THE HEARING, (DOC. 155 @ 155-157)
48. AIC SHOULD BE ORDERED TO SURRENDER LEGAL DOCUMENTS TO EGGERS IN ACCORD WITH RULES OF PROFESSIONAL CONDUCT, RULE 116.
49. AIC HAS BEEN INFORMED, EGGERS LEGAL AFFAIRS ARE NO LONGER THEIR CONCERN, EXCEPT SURRENDERING EGGERS LEGAL DOCUMENTS.
50. EGGERS HAS RELINQUISHED ALL APPEALS, NOW MOVING FORWARD TO HIS EXECUTION WITHOUT COUNSEL WHO SHALL ENSURE THAT THE STATE OF ALABAMA COMPLIES WITH ALL APPLICABLE EXECUTION PROCEDURES, WHICH IS WHAT EGGERS REQUESTED THE D.C.T. TO DO IN DECEMBER 2015, (DOC. 156).
51. INSTEAD AIC HAS CAUSED INAPPROPRIATE DELAYS FAILING TO PROVIDE EFFECTIVE REPRESENTATION.
52. THE D.C.T. NOR C.D.A. ADDRESSED EGGERS ACTUAL CONFLICT OF INTEREST CLAIMS AGAIN BEGINNING THE APPEAL PROCESS MEANINGLESS, AN ISSUE PRESENTED BY PETITION MANDATES AN ANSWER.
53. NO CONTRASTING AMBIGUOUS EVIDENCE EXISTS ABOUT EGGERS DECISION TO WAIVE APPEALS.
54. EGGERS FULLY UNDERSTANDS THE SIGNIFICANCE AND CONSEQUENCES OF HIS WAIVER OF APPEALS.
55. THE STAGE IS SET, OVERTURE, CUE THE LIGHTS.
56. EGGERS SHALL BE EXECUTED, OR KILLED, HAVING NO MORE LIFE, ASENT AIC PERPETUAL LITIGATION.
57. EGGERS CASE IS IN NO WAY SIMILAR TO THAT OF KIRKPATRICK V CHAPPELL, CITED BY AIC, WHICH IS OFFENSIVE.
58. AIC FINDS EGGERS CURRENT WAIVER OF APPEALS INVALID, DUE TO INCOMPETENCY, BUT DECLARES EGGERS COERCED WAIVER OF AIC AT THE TIME OF APPREHENSION TO BE VALID, REFUSING TO DENY THE PRODUCTION OF RECORDS UNLAWFULLY SUPPRESSED.
59. AIC IN THEIR AMENDMENT, (DOC. 52), PRESENTED AN INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL CLAIM, ASSERTING TRIAL COUNSEL FAILED TO HAVE EGGERS EVALUATED FOR COMPETENCE AT THE TIME OF UNLAWFUL INTERROGATION, PRIOR TO TRIAL

60. However, the submitted the exact date and amount failing to have their exact, de, belated, future and original about errors submitted at the time of introduction and said that experiences with the U.S.F.B.I. and S.B.I. (000, 155) 61. The O.T. to specifically dismiss errors I.A.C. claims, (000, 134 @ 82-92, 823 FIM 10), desirable errors did not make the 4th findings of fact and these procedures, (000, 134 @ 154, FIM 17), which is defined by document 75, as errors did constitute the fact in # 100 32
62. The fact that errors were found that were from may current with orders which number has ability to render a rational decision on how to proceed on the available legal options, appropriate errors claims must be considered, which this law document for over 2 years,
63. In mid-1981, errors would have been better off or further make to execution of errors would have rendered the to the their false separate claims, taking numerous permits in the U.S.F.B.I. seeking entitlement of timely resolution of priority (month) made errors under title 38 and 3266.
64. But, such avenue did not provide truth, available laws of the administration of U.S.F.B.I.
65. Errors would have been better off or further make to execution of errors would have rendered the to the their false separate claims, taking numerous permits in the U.S.F.B.I. seeking entitlement of timely resolution of priority (month) made errors under title 38 and 3266.
66. But, such avenue did not provide truth, available laws of the administration of U.S.F.B.I.
67. Errors would have been better off or further make to execution of errors would have rendered the to the their false separate claims, taking numerous permits in the U.S.F.B.I. seeking entitlement of timely resolution of priority (month) made errors under title 38 and 3266.
68. But, such avenue did not provide truth, available laws of the administration of U.S.F.B.I.
69. Errors would have been better off or further make to execution of errors would have rendered the to the their false separate claims, taking numerous permits in the U.S.F.B.I. seeking entitlement of timely resolution of priority (month) made errors under title 38 and 3266.
70. But, such avenue did not provide truth, available laws of the administration of U.S.F.B.I.

PAST EXPERIENCES AND FEDERAL CLAIMS,

69. AIC DID NOT FIRE SUCH NOTIONS BECAUSE PRODUCTION OF THE RECORDS WOULD DISPROVE AIC FALSE CLAIMS MADE IN VIOLATION OF F.R.C.P., RULE 11, AND WANT EGGERS DETAINED. UNLAWFULLY

70. AIC ACTS AND OMISSIONS ARE WITHOUT SOUND LEGAL REASON.

71. CURRENTLY, AIC HAS CEASED DECLARING EGGERS TO BE DYSFUNCTIONAL ABOUT HIS PAST EXPERIENCES WITH THE F.B.I., AS AIC RECEIVED KNOWLEDGE, BUT HAS DEMONSTRATED POOR PROFESSIONAL JUDGMENT, REFUSING TO EMPLOY THEIR PROFESSIONAL SKILLS AND TRAINING BY FILING EFFECTIVE MOTIONS ENFORCEABLE BY LAW.

72. EGGERS BEING EXECUTED, FREED FROM UNLAWFUL CONFINEMENT IN A 7X10 IS NOT SAD, IT IS RELIEF.

73. A DYSFUNCTIONAL CRIMINAL JUSTICE SYSTEM, COMPELLING CAPITAL LITIGANTS TO CHASE FEDERAL CLAIMS LIKE A HUNTER CHASING THE PROVERBIAL CARROT FOR 30-35 YEARS, WHERE STATE COURTS ABUSE THE DOCTRINES OF STATE EXHAUSTION AND FEDERAL EXHAUSTION, CREATING INORDINATE ~~PRELIMINARY~~ PRELIMINARY DELAYS WHICH HINDER A LITIGANT'S ABILITY TO PROVE HIS INNOCENCE OF CAPITAL MURDER, AS FAVORABLE RECORDS MATERIAL TO THE ISSUES AT THE TIME OF TRIAL UNLAWFULLY SUPPRESSED BY THE STATE AND FEDERAL GOVERNMENT ARE SUBJECT TO DESTRUCTION UNDER STATE AND FEDERAL RETENTION OF RECORDS STATUTES, UNLAWFULLY DETAINING HIM, EXPOSING HIM TO A DOUBLE SENTENCE, 30 YEARS IN A TOMB AND THEN DEATH IS SAD.

74. A DYSFUNCTIONAL SYSTEM DESIGNED TO GIVE THE APPEARANCE OF DUE PROCESS, ONLY SO THE CITIZENS OF AMERICA BELIEVE THAT DUE PROCESS IS AVAILABLE IN AMERICA IF EVER THEY FIND THEMSELVES ~~BEING~~ FACING CRIMINAL PROSECUTION IS SAD.

75. CAPITAL LITIGATION LAW FIRMS ABANDONING CLAIMS AGAINST A CONVICTION SEEKING ONLY TO SAVE THE LIFE OF A CLIENT, CIRCUMVENTING THEIR DUTY AND MANDATE TO ZEALOUSLY ADVOCATE THE VOICE OF THE CONDEMNED, MAKING FALSE ALLEGATIONS ABOUT THE CLIENT'S COMPETENCE IN AN EFFORT TO SILENCE THE CLIENT, GAINING UNBODIED CONTROL OVER HIS LEGAL AFFAIRS IS SAD, (THE COURTS SHOULD NOT SPEND 4 YEARS RESOLVING COMPETENCY ISSUES).

76. CAPITAL LAW FIRMS CREATING INORDINATE DELAYS TO PROLONG THE LIFE OF A CLIENT HOUSED IN A TOMB FOR 35 MANY YEARS AS THEY POSSIBLY CAN REFUSING TO INVOKE TIMELY CAPITAL CASE RESOLUTION STATUTES UNDER TITLE 28 USC § 2266, IS SAD.

77. CONCEALING THE TRUE FACTS FROM AN ALLEGED VICTIM'S FAMILY IN ORDER TO PROTECT AN UNLAWFUL CONVICTION AND PRECLUDE CIVIL PROSECUTION FOR A WRONGFUL DEATH CONSPIRING WITNESS OFFICIAL MISCONDUCT IS SAD.

78. THE COURTS FAILING TO HOLD THE UNITED STATES ACCOUNTABLE FOR PUTTING ALL OF THESE THINGS IN MOTION BY THEIR ORIGINAL UNLAWFUL ACTS, OMISSIONS AND CROSS CRIMINAL

NEGOTIATION, ABDUCTING A CHILD OFF OF THE STREET, COERCING HIM TO BE A CONFIDENTIAL INFORMANT AGAINST MEMBERS OF ORGANIZED CRIME IN AN EXPLOSIVELY DANGEROUS OCCUPATION OF CRIMINAL LAW ENFORCEMENT WITHOUT ANY PROFESSIONAL TRAINING ON HOW TO DEAL WITH VIOLENCE AND WITNESS RETALIATION IN ACCORD WITH THE VIOLENCE AND WITNESS PROTECTION ACT, TITLE 18 USC § 1512, 1513, FAILING TO RESTRAIN CONSPIRATORS IN ACCORD WITH TITLE 18 USC § 1514 TO ENSURE THAT LAW ENFORCEMENT WERE NOT EXPOSED TO CIVIL PROSECUTION FOR THEIR ORIGINAL UNLAWFUL ACTS AND OMISSIONS, IT IS SAID:

79. THE COURTS FAILING TO BLOW THE WHISTLE, EXPOSING ANY AND ALL OTHER CHILDREN TO SUCH LIE, OFFICIAL MISCONDUCT IT IS SAID.

80. THE COURTS HAVE A DUTY TO EXERCISE CHECKS AND BALANCES, & SUMMARIZE OFFICIAL MISCONDUCT, EXPOSING TRUE FACTS WHICH LEADS TO CONGRESS CREATING LAWS WHICH WOULD PROTECT CHILDREN FROM BEING COERCED TO BE CONFIDENTIAL INFORMANTS, AND THE LIVES OF CITIZENS LIKE BENNIE FRANKS MURRAY FROM SAID PERSONS LIKE EGGERS, WHO COULD NOT APPRECIATE THE NATURE OF HIS ACTIONS DUE TO PSYCHOLOGICAL DISORDERS AT THE TIME OF THE ALLEGED OFFENSE DERIVED FROM AN INVOLUNTARY SPECIAL RELATIONSHIP WITH THE U.S.F.O. AND EXTENSIVE RETALIATION UNRESTRAINED BY ORGANIZED CRIME UNRESTRAINED IN ACCORD WITH LAW.

81. EGGERS PLEADINGS HAVE TALK UPON THE DEAF EARS OF THE COURTS.

82. A PETITION FOR A REHEARING EN BANC SHOULD BE DENIED

RESPECTFULLY SUBMITTED,

~~WWE~~

MURRAY WAYNE EGGERS Z-089

D.C.F. #1

100 WARRIOR LANE

BEVERLY, ALABAMA 35023-7299

PRO SE

"A JUDGMENT UPON THE ISSUES ENDS LITIGATION AND LEAVES NOTHING FOR THE COURT TO DO BUT EXECUTE THE JUDGMENT", CATLIN V U.S., 324 U.S. 229

EXHIBIT A

ALABAMA SUPREME COURT ORDER DATED 11-29-2017



IN THE SUPREME COURT OF ALABAMA

November 29, 2017

1040344

Ex parte Michael Wayne Eggers. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: Michael Wayne Eggers v. State of Alabama) (Walker Circuit Court: CC01-218; Criminal Appeals: CR-02-0170).

ORDER

IT IS ORDERED that the Renewed Motion to Expedite Eggers' Execution filed by Michael Wayne Eggers on October 30, 2017, shall be held in ABEYANCE pending a final disposition of Michael Wayne Eggers v. State of Alabama, Appeal Nos. 16-10785 and 16-16805, which are currently pending before the United States Court of Appeals for the Eleventh Circuit.

IT IS FURTHER ORDERED that the State of Alabama shall file a status report supported by necessary documentation with this Court within fourteen (14) days of the entry of a final disposition of Michael Wayne Eggers v. State of Alabama, Appeal Nos. 16-10785 and 16-16805.

I, Julia Jordan Weller, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true, and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 29th day of November, 2017.

A handwritten signature in cursive script that reads "Julia Jordan Weller".

Clerk, Supreme Court of Alabama

cc:
John G. Stokesberry
Michael Wayne Eggers
Steven Marshall
Richard D. Anderson
James Clayton Crenshaw

EXHIBIT "A"

EXHIBIT B

ALABAMA ATTORNEY GENERAL'S 12-20-2017
UPDATED RESPONSE TO SHOW CAUSE ORDER
IN ALABAMA SUPREME COURT

to cease filing *pro se* pleadings, finding that he had no right to hybrid representation. On November 25, 2015, Judge Scott Coogler denied habeas relief and denied a certificate of appealability. On December 23, 2015, Ms. Smith and Mr. Palombi filed a motion for reconsideration of the District Court's denial of habeas corpus relief. That motion was denied on January 8, 2016.

2. Subsequently, Mr. Eggers filed a motion in District Court expressing his desire to refrain from appealing the dismissal of his habeas petition and to terminate appointed counsel's representation. Appointed counsel then moved for a competency determination. On February 4, 2016, the District Court extended the deadline for taking an appeal and granted the request for a competency hearing. On March 9, 2016, appointed counsel filed a motion in the Eleventh Circuit Court of Appeals, seeking a "protective appeal" and a limited remand to the District Court for a hearing to determine Mr. Eggers' competency to dismiss his appeal.

3. That motion was granted and on April 7, 2016, and the Eleventh Circuit stayed the appeal (appeal no.

16-10785) and remanded the proceeding to the District Court for a competency hearing. The District Court held the competency hearing on April 8, 2016. At that hearing, the District Court heard testimony from appointed counsel's expert, Dr. Kenneth Benedict, the State's expert, Dr. Glen King, and from Mr. Eggers himself.

4. After hearing the testimony, and after the submission of post-hearing briefs by appointed counsel, Mr. Eggers, and the State, Judge Scott Coogler found that:

"Eggers has made a rational choice to dismiss his appointed counsel and abandon his appeal. Eggers has the right to make that decision, provided he is competent to do so, and the evidence indicates that he is."

Eggers v. State, No. 2:13-CV-1460-LSC, 2016 WL 5339686, at *14 (N.D. Ala. Sept. 21, 2016). Accordingly, the court ruled that "Eggers's pending motions to withdraw his appeal, dismiss appointed counsel, and proceed to execution (docs. 136 and 139) are hereby **GRANTED**." *Id.* (emphasis in original.)

5. While the District Court determined that Eggers was competent and that his habeas proceedings

were at an end, Eggers' appointed counsel retained limited standing to appeal the narrow question of whether the District Court's competency determination was "clearly erroneous." *Ford v. Haley*, 195 F.3d 603, 617, 624 (11th Cir. 1999). On October 25, 2016, appointed counsel filed motion for a certificate of appealability stating their intent to pursue a limited appeal of the competency determination. The District Court denied a certificate of appealability on October 25, 2016. (Exhibit A.) On October 27, 2016, appointed counsel filed their notice of appeal from the competency hearing, which was designated appeal no. 16-16805. (Exhibit B.)

6. Despite the denial of a certificate of appealability, on November 28, 2016, the Eleventh Circuit Court of Appeals entered an order consolidating the appeal nos. 16-10785 and 16-16805, and ordered briefing on "the district court's competency ruling." (Exhibit C, p. 3.)

7. On December 5, 2017, the Eleventh Circuit Court of Appeals issued its opinion in consolidated appeals no. 16-10785 and 16-16805, *Michael Wayne Eggers*

vs. The State of Alabama. (Attached hereto as Exhibit "C".) Finding that "the district court did not clearly err in finding Eggers competent to abandon his appeals, dismiss counsel and proceed to execution," the Eleventh Circuit found that "there is no longer any live controversy between Eggers and the respondent." *Id.* at 43. Further, the time for filing a motion for rehearing of the Eleventh Circuit's decision has now passed.

8. Because Eggers no longer has any pending actions in either state or federal court, the State believes that Mr. Eggers Motion to Expedite Execution is appropriate and due to be granted.

WHEREFORE, based on the foregoing, the State of Alabama respectfully reports that there are no matters pending that would operate to bar Mr. Eggers sentence from being carried out, and that Mr. Eggers Motion to Expedite his Execution is timely.

Respectfully submitted,

STEVE MARSHALL
Attorney General

s/ Richard D. Anderson
Richard D. Anderson
Assistant Attorney General

EX B

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of December 2017, I did serve a copy of the foregoing on Michael Wayne Eggers as follows:

Mr. Michael Wayne Eggers
AIS # Z-689
Donaldson Correctional Facility H-1
100 Warrior Lane
Bessemer, AL 35023-7299

s/ Richard D. Anderson
Richard D. Anderson
Assistant Attorney General

State of Alabama
Office of the Attorney General
501 Washington Avenue
Montgomery, AL 36130-0152
(334) 353-2021
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EX B