

Nos. 17-8105, 17A970

OCTOBER TERM 2017

IN THE
SUPREME COURT OF THE UNITED STATES

MICHAEL EGGERS,
Petitioner,

v.

ALABAMA,
Respondent.

On Petition for a Writ of Certiorari
to the Court of Appeals for the Eleventh Circuit

**REPLY TO RESPONDENT'S BRIEF IN OPPOSITION
AND
REPLY TO OPPOSITION TO APPLICATION FOR STAY OF EXECUTION**

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March 14, 2018

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ARGUMENT

The State offers five reasons for denying this writ, one of which creates an entirely new *certiorari* issue, three of which are straw men, and one that is legally incorrect. None of the arguments avoid the key fact at the center of this case: Michael Eggers is delusional. *Certiorari* should be granted, and as argued later in this response, a stay should be granted to review the issue that Mr. Eggers raised, as well as the one that the State raised in its Brief in Opposition.

I. Counsel have standing to seek *certiorari* from the Eleventh Circuit's judgment, and if that proposition is questionable, as the State posits, this Court should stay Mr. Eggers' execution and grant *certiorari* to review that question.

The State's first argument is that Mr. Eggers' appointed counsel lack standing to seek *certiorari* from the Eleventh Circuit's decision. This argument does not fit the previous practice before this Court and in effect would deprive this Court of jurisdiction to review the decision of a lower court finding that a death-sentenced inmate was competent to waive counsel and withdraw his appeal. However, should this Court question that past practice, it should grant *certiorari* on the issue that the State has raised.

A. The State's argument is belied by logic and this Court's past precedent.

The State contends that appointed counsel who were discharged by a client that is found competent cannot pursue *certiorari* from that decision. In other words, the State's argues this Court has no jurisdiction to review such a decision, no matter how the lower courts reached the decision that the Petitioner was competent

to discharge his appointed counsel. This logic is faulty. Counsel were appointed under 18 U.S.C. § 3599. As such, counsel are authorized to represent Mr. Eggers in his habeas proceedings, through certiorari in this Court.¹

This Court held in *Harbison v. Bell*,² citing *McFarland v. Scott*,³ that denial of a motion to authorize counsel to represent a defendant in clemency proceedings is an appealable order.⁴ The order in this case is similar. The District Court allowed Mr. Eggers to discharge appointed counsel. That order is an appealable order, and the State never questioned counsel's standing to appeal that order. Now, however, the State argues that standing ends at the Eleventh Circuit, and does not extend to the final step in the appellate process. This conclusion is illogical and must be rejected.

This argument is also contrary to this Court's past practices. Petitioner cited two cases involving lower court decisions finding a defendant competent to end his habeas litigation: *Lopez v. Stephens*,⁵ and *Smith v. Armentrout*.⁶ In *Lopez*, certiorari was requested and denied.⁷ In *Smith*, certiorari was requested and

¹ 18 U.S.C. § 3599(e).

² 556 U.S. 180 (2009).

³ 512 U.S. 849 (1994).

⁴ *Harbison*, 556 U.S. at 183.

⁵ 783 F.3d 524 (5th Cir. 2015).

⁶ 812 F.2d 1050 (8th Cir. 1987).

⁷ 136 S. Ct. 17 (Mem.) (2015).

denied.⁸ Another case illustrating this point is Justice Rehnquist's in chambers opinion staying the execution of Walter Bishop in *Lenhard v. Wolff*.⁹ Mr. Bishop was set to be executed and he did not want a stay sought or *certiorari* sought from the Nevada Supreme Court's judgment affirming his conviction. Justice Rehnquist, acting for the Court, concluded that a stay was appropriate to allow the Court to consider the *certiorari* petition pending before the Court, despite lower court rulings that Mr. Bishop was competent.¹⁰

To now conclude that counsel appointed under 18 U.S.C. § 3599 cannot seek *certiorari* to complete the habeas corpus appeal does not fit this Court's past practice, and the argument should be rejected.

B. If standing is at issue, the Court should grant *certiorari* review on the issue raised by the State.

The State has raised an issue that would affirm the judgment, but asks for a ruling that would apply to future cases in this posture. Rule 14.1(a) states that the Court will only consider the questions in a *certiorari* petition or those "fairly included therein." Given that the State has questioned standing, that issue is fairly raised by the petition. Should this Court consider dismissing Mr. Eggers' petition for writ of *certiorari* based on the standing issue, it should stay Mr. Eggers' execution and grant *certiorari* on the question, rather than decide a significant

⁸ 483 U.S. 1033 (1987).

⁹ 443 U.S. 1306 (1979).

¹⁰ *Id.*

undecided issue in the 24 hours before an execution.

II. Mr. Eggers has been equivocal about wanting to be executed for almost 15 years.

The State's straw men arguments are encompassed in sections II, III and IV of its brief in opposition. The State attempts to make this petition not about the question presented, but about whether the District Court's decision was clearly erroneous.¹¹ The first part of that argument denies, contrary to the record, that Mr. Eggers has been equivocal about his desire to be executed.

Mr. Eggers, by his own admission, has asked to be executed nine times. After each time Mr. Eggers expressed an intention to abandon his appeals, he went on challenging his conviction and sentence. Had he truly wanted to be executed all or any of those times, he would not have pursued those subsequent legal challenges. Even now, when allegedly only desiring to be executed, he has continued to file pleadings evidencing his intention to continue pursuing his appeal as a *pro se* litigant, assuming an affirmance of the lower court's competence ruling.¹²

The strongest indicator of Mr. Eggers' true desires is the first pleading he filed after the District Court ruled that he was competent to discharge counsel and be executed. He asked for a stay of execution to allow this Court to consider a mandamus petition he had pending before the Court, which, as he stated, contained

¹¹ As the Court states in its rules, "A petition for a writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law." Rule 10.

¹² See Docs. 174 & 175.

“serious allegations” about violations of his constitutional rights:

Figure 1-Eggers’ Motion for Stay of Execution

1. EGGER'S HAS BASED SERIOUS ALLEGATIONS, CONTAINED WITHIN HIS HABEAS APPLICATION, (A COPY OF WHICH, WAS SERVED UPON THIS COURT), CONSISTING OF:

- A) U.S. CONSTITUTIONAL VIOLATIONS
- B) INCOORDINATE DELAYS
- C) DENIAL OF DUE PROCESS
- D) DENIAL OF ACCESS TO THE COURTS
- E) DENIAL OF A RIGHT TO PETITION THE COURTS FOR REDRESS OF GRIEVANCES.

He went on to allege that lower courts had denied him a “comprehensive ruling” on his *pro se* habeas claims:

Figure 2-Eggers’ Motion for Temporary Stay

10. THIS COURT REFUSED TO REOPEN EGGER'S HABEAS CORPUS CASE, *SUA SPONTE* AS EGGER'S REQUESTED, PROVIDING A COMPREHENSIVE RULING UPON EGGER'S BRIEF, (DIT 75), AT WHICH TIME EGGER'S WOULD RE-EVALUATE HIS LEGAL OPTIONS, RENDERING A DETERMINATION ON WHETHER OR NOT TO APPEAL.

11. THAT RELIEF WAS REQUESTED BY THE U.S.S.C.T. AN ORDER DIRECTING THIS COURT TO PROVIDE A COMPREHENSIVE RULING UPON EGGER'S PRO SE BRIEF.

Thus, Mr. Eggers purported to reevaluate legal options related to the habeas claims he had just abandoned. This pleading was filed two weeks after the Court discharged counsel and dismissed his appeals. This document is included in its entirety as Exhibit A to this pleading.

Reviewing Mr. Eggers’ actions over the last 15 years, it cannot be said with

any degree of certainty that Mr. Eggers now wants to be executed, regardless of how the State wants to paint this present request. The record shows that every time Mr. Eggers does not get what he wants, whether it is self-representation, or a more thorough review of his claims, he decides that he wants to be executed. It is that equivocation that leads to the question presented in this case: whether the District Court should have just discharged counsel instead of discharging counsel and allowing Mr. Eggers' expedited execution.

III. Whether the District Court applied the correct standard is not at issue.

The petition does not raise the claim that the District Court failed to use the right standard. Instead, it argues that the District Court should have first allowed Mr. Eggers to represent himself on appeal rather than immediately move to execution. This section of the State's Brief in Opposition is irrelevant to the question before this Court and is rather an attempt to show that Mr. Eggers rationally decided to end his habeas litigation because of a myriad of conspiracies.

IV. Whether the District Court's ruling is clearly erroneous is not directly at issue.

This Court is not a court of error-correction. The State, rather than argue the issue presented, asserts instead that Mr. Eggers' decision making process is perfectly rational. This assertion is not tenable. Mr. Eggers believes that this Court, the District Court, the State of Alabama, the Federal Bureau of Investigation, the Federal Defender's Office, the San Bernardino County Sheriff's Department and the Department of Corrections are in a conspiracy to hide the fact that Mr. Eggers was

“victimized” by forces over the last 30 years that caused him to kill Bennie Murray.

It is his unshakable belief in that conspiracy, in the face of logic and evidence, that makes it delusional. The state however, clings to the testimony of Dr. Glen King, whose credibility was destroyed in this short segment of testimony:

Figure 3-Testimony from Competency Hearing

11	Q. WELL, DO YOU BELIEVE THAT IT'S POSSIBLE I
12	AM INVOLVED IN A CONSPIRACY WITH THE SAN
13	BERNARDINO COUNTY SHERIFF'S DEPARTMENT AND THE
14	U.S. GOVERNMENT, INCLUDING THE FBI, TO CONCEAL
15	EXCULPATORY EVIDENCE AGAINST MR. EGGERS?
16	A. NO, I DON'T BELIEVE THAT.
17	Q. BUT YOU DON'T BELIEVE THAT MR. EGGERS IS
18	DELUSIONAL IN HOLDING THAT BELIEF ABOUT HIS
19	LAWYERS?
20	A. I DON'T KNOW THAT HE HOLDS THAT BELIEF.
21	YOU READ SOMETHING TO ME, BUT MY EVALUATION OF
22	HIM, THE TIME I SPENT, MY REVIEW OF RECORDS, I
23	DON'T BELIEVE THAT HE IS DELUSIONAL.

While the District Court’s decision is not directly at issue in this petition, the conclusion that Mr. Eggers’ decision to discharge counsel and be executed was not the result of his delusional thought processes is unsupportable.

V. This certiorari is not futile.

The State’s final argument is that granting certiorari in this case would be “pointless.” That is not the subject of this petition and is hardly the case. The

subject of this petition is whether a defendant who is equivocal about being executed, but not about self-representation, should be allowed to represent himself and not be executed. Remanding this case to the District Court for a determination of whether Mr. Eggers wants to represent himself on appeal or beyond would not be a pointless act. Granting *certiorari* and not executing Michael Eggers is hardly a pointless act. This argument, as with the rest of the Brief in Opposition, attempts to deflect this Court's attention from the real facts of this case.

In fact, Mr. Eggers is delusional. Mr. Eggers has been delusional for all of his adult life. The documents presented by the State in its Brief in Opposition demonstrate those delusions, as do the documents presented in the Petition. The State's avoidance techniques do not alter the tragic reality of Mr. Eggers' mental illness or its consequences.

His persecutory delusions led to Mr. Eggers asking nine times to be executed. The previous eight requests were followed by significant litigation, which Mr. Eggers initiated and avidly pursued. The District Court did not take that evidence into account when it ordered that Mr. Eggers be placed on an expedited route to execution. This Court should grant *certiorari* and remand this case to the District Court, with directions to reinstate Mr. Eggers' appeal from denial of his habeas corpus petition, and allow Mr. Eggers to represent himself on the appeal from his habeas corpus petition.

VI. A stay is necessary for proper consideration of this case.

The State opposes the application for a stay, primarily on the same grounds presented in the Brief in Opposition, which have been addressed above. However, counsel respond to the implication that the Alabama Supreme Court was correctly advised about the status of Mr. Eggers' case in federal court when it set an execution date. It was not.

On January 2, 2018, the State informed the Alabama Supreme Court that no rehearing petition had been filed:

Figure 4-State's Updated Response to Show Cause Order

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.

This statement was incorrect. In fact, counsel electronically filed a timely petition for rehearing which was docketed on December 26, 2017. The State claims that it was not served with that petition. But while the ECF notification from the Eleventh Circuit appears to leave the State out, Mr. Eggers filed a response to that rehearing that was served on the parties, including the State, on January 18, 2018, prior to the Alabama Supreme Court's order setting an execution date.

Instead of notifying the Alabama Supreme Court immediately about the timely rehearing petition, the State instead waited until after the Alabama

Supreme Court set an execution date to correct its misstatement. In other words, due to the State's inducement, the Alabama Supreme Court set Mr. Eggers' execution date based on faulty information.

CONCLUSION

Michael Eggers is delusional and has been equivocal on the issue of whether he wants to be executed for over 15 years. This Court should stay his execution and take this case to examine the important issues surrounding the execution of the mentally ill, in particular, whether a death-sentenced inmate should be allowed to expedite his execution with the help of the State, when what he truly desires is to represent himself.

Respectfully submitted,

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EXHIBIT A

CAPITAL CASE

CT. COPY

MICHAEL WAYNE EGGERS,
PETITIONERV
STATE OF ALABAMA
RESPONDENT

CASE # 2:13-CV-01460-LSC

DATE: 09-26-2016

FILED

2016 OCT -3 P 12:24

U.S. DISTRICT COURT
N.D. OF ALABAMAMOTION FOR AN ORDER GRANTING
A TEMPORARY STAY

TO THE HONORABLE CLERK OF THE COURT:

NOW COMES, EGGERS, IN A PRO SE CAPACITY, MOVING THIS COURT TO ISSUE AN IMMEDIATE ORDER GRANTING A TEMPORARY STAY, IN PART, UPON THIS COURT'S MEMO AND ORDER, (Dkt 173 @ PAGE 41), PREVENTING THE ENFORCEMENT OF SAID JUDGMENT, AUTHORIZING EGGERS AND THE STATE OF ALABAMA TO PROCEED TO EXECUTION, PENDING THE DISPOSITION OF EGGERS' APPLICATION FOR A WRIT OF HABEAS CORPUS, IN RE EGGERS, #16-5861, A CAPITAL CASE. WAIVING RESPONSES FROM THE RESPONDENTS CURRENTLY BEFORE THE UNITED STATES SUPREME COURT.

IN SUPPORT EGGERS ASSERTS THE FOLLOWING:

1. EGGERS HAS RAISED SERIOUS ALLEGATIONS CONTAINED WITHIN HIS HABEAS CORPUS APPLICATION, (A COPY OF WHICH, WAS SERVED UPON THIS COURT), CONSISTING OF:
 - A) U.S. CONSTITUTIONAL VIOLATIONS
 - B) INORDINATE DELAYS
 - C) DENIAL OF DUE PROCESS
 - D) DENIAL OF ACCESS TO THE COURTS
 - E) DENIAL OF A RIGHT TO PETITION THE COURTS FOR REDRESS OF GRIEVANCES.

- F) DENIAL OF CERTIFIED COPIES OF THE RECORD
- G) DENIAL OF A RIGHT TO PROCEED IN A PRO SE CAPACITY AT A CRITICAL STAGE
- H) DENIAL OF THE RIGHT TO HAVE EFFECTIVE SUCCESSOR COUNSEL APPOINTED TO ASSIST EGGERS
- I) DENIAL OF EQUAL PROTECTION UNDER THE LAW
- J) JUDICIAL ABUSE OF DISCRETION AND POWER ENTRUSTED TO AN OFFICER OF THE COURTS,
- K) DELIBERATE AND UNREASONABLE DETERMINATIONS OF THE FACTS IN LIGHT OF THE EVIDENCE PRESENTED IN BOTH THE STATE AND FEDERAL COURTS
- L) DECISIONS RENDERED BY THE STATE AND FEDERAL COURTS THAT ARE AND WERE CONTRARY TO UNREASONABLE APPLICATIONS OF, CLEARLY ESTABLISHED FEDERAL LAW, AS DETERMINED BY THE U.S. SUPREME COURT UPON THE SAME POINTS OF LAW,
- M) THE FRAGRANT DENIAL OF POST CONVICTION DISCOVERY, IN FEDERAL HABEAS CORPUS, AFTER THE PETITIONER HAS SHOWN "GOOD CAUSE" AUTHORIZING DISCOVERY, MAKING CREDIBLE ALLEGATIONS OF CONSTITUTIONAL VIOLATIONS, DEMONSTRATING EXIGENT CIRCUMSTANCES, THAT THE REQUESTED FAVORABLE MATERIAL WAS REQUESTED AT TRIAL, ORDERED TO BE PRODUCED, WAS MATERIAL TO THE ISSUES AT THE TIME OF TRIAL, THAT THE PETITIONER EMPLOYED EXTRAORDINARY DILIGENCE TO OBTAIN THE MATERIAL, AND THAT THE REQUESTED MATERIAL WOULD ENABLE THE PETITIONER TO INVESTIGATE SUFFICIENTLY PLEADING AND PROVING HIS CLAIMS,
- N) THAT THE COURT INITIATED UNLAWFUL HABEAS REPRESENTATION PROCEEDINGS, THEN IGNORED PRO SE PLEADINGS, TO PREVENT THE COURT FROM IDENTIFYING ESSENTIAL ELEMENTS, AND FACTS OF EGGERS FEDERAL CLAIMS WARRANTING DISCOVERY, RELIEF FROM HIS CONVICTION AND EVIDENTIARY HEARINGS IN ACCORD WITH LAW,
- O) THAT THE COURT FAILED TO PRODUCE

AND PROVIDE COMPREHENSIVE RULINGS UPON EGGERS' PRO SE PLEADINGS, AND EVIDENCE IN SUPPORT OF HIS CLAIMS, EXPLAINING HOW AND/OR WHY DISCOVERY, RELIEF FROM CONVICTION AND EVIDENTIARY HEARINGS WERE NOT WARRANTED, DEVIATING FROM PRESCRIBED HABEAS CORPUS RULES, RULE 8,

P) THAT THE COURT FAILED TO TIMELY ADDRESS ISSUES ABOUT EGGERS' COMPETENCY, DISCHARGING A/O AFTER EGGERS PROVIDED A CLEAR AND UNERUDDOCK WAIVER OF A/O,

Q) THAT THE D.C.T. HAS DEVIATED SO FAR FROM STANDARD PROCEDURE FEDERAL HABEAS PROCEEDINGS HAVE BECOME MEANINGLESS,

R) EX PARTE COMMUNICATIONS BETWEEN THE D.C.T. AND THE U.S.S.C.T. CLERK OF THE COURT, DESIGNED TO DISRUPT THE PROPER AND EFFECTIVE ADMINISTRATION OF CRIMINAL JUSTICE,

S) THAT THE D.C.T. REFUSED TO DISCHARGE A/O, TO USE A/O AS A SHERD, DENYING EGGERS' PRO SE CLAIMS BASED UPON THE DISMISSAL OF A/O UNQUALIFIED AMENDMENT WHERE A/O MADE VOLUNTARIOUS FALSE ALLEGATIONS, ABANDONING EGGERS' EXHAUSTED FEDERAL CLAIMS AND PROCEDURAL BAR EXCEPTIONS... A DYSFUNCTIONAL SYSTEM...

... HOWEVER, NOT LIMITED TO ANY OF THESE,

2. BECAUSE EGGERS' WRITING APPLICATION IS A CAPITAL CASE, THE RESPONDENTS ARE REQUIRED TO RESPOND WITHIN 30 DAYS AFTER THE ALLEGED CASE IS PLACED ON THE DOCKET IN ACCORD WITH U.S.S.C.T. RULES OF COURT, RULE 20 (2), RULE 14.1 (9), RULE 15 (1), RULE 15 (3), AND RULE 20.3 (b)

3. IN RE EGGERS, NO. 16-5861, WAS PLACED ON THE DOCKET OF THE U.S.S.C.T. ON SEPTEMBER 07, 2016, ANNOUNCING A RESPONSE BY OCTOBER 7, 2016, ABSENT ANY ORDERS GRANTING AN EXTENSION OF TIME IN WHICH TO RESPOND OR NOTICES BY THE RESPONDENTS REFLECTING THEIR WISH NOT TO RESPOND,

4. A NOTICE OF THE CASE BEING PLACED UPON THE DOCKET HAS BEEN SERVED UPON ALL INTERESTED PARTIES IN ACCORD WITH U.S.S.C.T. RULES OF COURT, RULE 12 (3),

5. THE D.C.T. RECENT ORDER (DIT 173) FAILS TO MOOT THE ISSUES AND RELIEF REQUESTED IN THE U.S.S. CT. MANDAMUS APPLICATION.

6. EGGERS PRAISES THE COURT FOR A RUNNING FINDING EGGERS COMPETENT, ABLE TO MAKE A RATIONAL CHOICE, AND DISMISSING AIC.

7. EGGERS' IS NOT FLIPPING AND FLOPPING UPON THE DECISION ~~TO~~ TO WAIVE ALL FUTURE APPEALS, MANDAMUS CAME AFTER.

8. EGGERS DECISION MAKING PROCESS, AS ALWAYS, HAS BEEN BASED UPON THE ACTS AND OMISSIONS OF OFFICIALS, THIS COURT, THE STATE, ETC, ETC, AIC.

9. WHEN THIS COURT REFUSED TO ISSUE AN IMMEDIATE RUNNING UPON EGGERS COMPETENCE THE COURT COMPELLED EGGERS TO CHASE AFTER THE PROVERBIAL CARROT, PROTECTION OF HIS U.S. CONSTITUTIONAL RIGHTS BY THE U.S.S. CT.

10. THIS COURT REFUSED TO REOPEN EGGERS HABEAS CORPUS CASE, SUA SPONTE, AS EGGERS REQUESTED, PROVIDING A COMPREHENSIVE RUNNING UPON EGGERS BRIEF, (DIT 75), AT WHICH TIME EGGERS WOULD RE-EXAMINE HIS LEGAL OPTIONS, RENDERING A DETERMINATION ON WHETHER OR NOT TO APPEAL.

11. THAT RELIEF WAS REQUESTED BY THE U.S.S. CT. AN ORDER DIRECTING THIS COURT TO PROVIDE A COMPREHENSIVE RUNNING UPON EGGERS PRO SE BRIEF.

FOR EXAMPLE: THIS D.C.T. ORDER OF DISMISSAL (DIT 134 @ PAGE 154), FINDS THAT EGGERS DOES NOT CHALLENGE THE FACTS FOUND BY THE ACCA IN THIS PROCEEDING, (FOOTNOTE 17), RELATING TO EGGERS FEDERAL PRO SE CHAINS 7-19, UNDER THE 5TH AND 6TH AMENDMENTS TO THE U.S. CONSTITUTION.

NOTHING CAN BE FURTHER FROM THE TRUTH, AS EGGERS FULLY CHALLENGED THE FACTS, UNDERMINING THE ACCA FINDINGS OF FACT, IN BOTH THE STATE P.C. PROCEEDINGS, (POR SUP-I @ 110-ACC), AND EGGERS FEDERAL BRIEF (DIT 75).

12. EGGERS HAS LABORED EXTENSIVELY OVER THE LAST 12 YEARS PRESENTING HIS FEDERAL CHAINS, AND RECENT MANDAMUS APPLICATION IN THE U.S.S. CT., CONSUMING TIME, MONEY, RESOURCES, STAMPS, PHYSICAL ENERGY, MENTAL PREPARATION EXPERIENCING EXTREMELY HIGH ANXIETY.

13. EGGERS BELIEVES THAT HE IS ENTITLED TO BOTH, RELIEF FROM HIS UNLAWFUL CONVICTION, AND THE RELIEF REQUESTED IN HIS WRIT PETITION.

14. IN LIGHT OF THE EXTRA-ORDINARY CIRCUMSTANCES OF THIS CASE; INCLUDING, BUT NOT LIMITED TO:

A) THIS COURT'S RECENT ORDER, (DIT 173) FINDING EGGERS COMPETENT, DISMISSING SAID, AUTHORIZING EGGERS EXECUTION, DESIGNED SPECIFICALLY WITH THE INTENT TO MOOT WRIT PETITION ISSUES PRESENTED IN THE U.S.S.C.T., BUT FAILED,

AND B) THE U.S. COURT OF APPEALS FOR THE 11TH CIRCUIT'S DELIBERATE MISINTERPRETATION OF EGGERS EXPRESS WAIVER FILED ON 01-27-2016, AND THEIR RESPONSE, RETURNING EGGERS PLEADINGS UNFILED, ASSERTING THAT EGGERS HAD NO FURTHER RELIEF AVAILABLE TO HIM BY THAT C.O.A., RENDERING AN UNREASONABLE DETERMINATION OF THE FACTS CONTAINED THERE-IN, (APPENDIX (1), EX. A, IN RE EGGERS, 16-5861)

AND C) THE U.S. C.O.A. FOR THE 11TH CIRCUIT 06-10-2016 ORDER BY THE CLERK, DECLARING THAT EGGERS COULD NOT FILE ANY DOCUMENTS IN THE C.O.A. BECAUSE EGGERS WAS REPRESENTED BY A/C, (APPENDIX (1), EX. C, IN RE EGGERS, 16-5861)

... EGGERS INITIATED WRIT PETITIONS, ESTABLISHING JURISDICTION OF THE U.S.S.C.T., AND SHALL MOVE THE HIGH COURT TO ENTERTAIN EGGERS HABEAS CORPUS PETITION AT THIS TIME IN ACCORD WITH U.S.S.C.T. RULES OF COURT, RULE 20(4).

15. EGGERS BELIEVES THAT THE COURT GRANTING SAID MOTION FOR A TEMPORARY STAY IS IN THE INTEREST OF TRUTH, LAW AND JUSTICE.

16. IF THE HIGH COURT DENIES EGGERS WRIT PETITION, EGGERS SHALL IMMEDIATELY NOTIFY THE COURT, REQUESTING THAT THE TEMPORARY STAY BE LIFTED, PROCEEDING TO EXECUTION.

SAID PREMISES CONSIDERED, EGGERS PRAYS THAT SAID MOTION IS GRANTED WITHOUT UNLAWFUL DELAY.

RESPECTFULLY SUBMITTED,

[Signature]

MICHAEL WAYNE EGGERS 2-689

D.C.F. #1

100 JORDAN WAY

BESS., AL. 35023

PRO SE

(SEE PAGE 6 BELOW)

17. EGGERS HAS FILED A WAIVER OF TIME IN WHICH TO FILE A MOTION FOR A CERTIFICATE OF APPEARANCE AS TO THIS D.C.T. ORDER FINDING EGGERS COMPETENT AND DISCHARGING HIM CONCURRENTLY WITH THIS MOTION FOR A TEMPORARY STAY, TO BE CONSIDERED HERE-IN THIS MOTION WITH EQUAL FORCE.

18. EGGERS HAS FURTHER NOTIFIED THE A.S.C.T. OF THIS D.C.T. ORDER FINDING EGGERS COMPETENT, DISCHARGING HIM, AUTHORIZING EGGERS EXECUTION (SEE EX PARTE EGGERS, #1040344, FILED ON 09-27-2016)

19. IF THE A.S.C.T. SETS AN EXECUTION DATE FOR EGGERS, ... EGGERS SHALL MOVE FOR A TEMPORARY STAY IN THE A.S.C.T. PENDING DISPOSITION OF HANONHUIS PROCEEDINGS IN THE U.S.S.C.T.

20. IN ORDER FOR EGGERS TO BE ABLE TO FILE A MOTION FOR A STAY IN THE U.S.S.C.T., EGGERS MUST SEEK A STAY IN THE LOWER COURT FIRST IN ACCORD WITH U.S.S.C.T. RULES OF COURT, RULE 23 (3).

21. THE D.C.T. AND THE STATE'S SUGGESTION OF HOOTNESS OF EGGERS HANONHUIS ISSUES AND RELIEF REQUESTED IS FOR THE U.S.S.C.T. TO DETERMINE.

EDGERS PET. } # 2:13-cv-01460
 V. }
 AIC RESP. } DATE: 09-29-2016

WAIVER OF TIME

TO THE HONORABLE CLERK OF THE COURT;

NOW COMES THE PETITIONER, EDGERS, PROVIDING THE D.C.T. WITH AN UNEQUIVOCAL WAIVER UPON THE TIME PROVIDED UNDER LAW IN WHICH TO FILE A MOTION FOR A CERTIFICATE OF APPEALABILITY UPON THE D.C.T. ORDER, (DIT 173), FINDING EDGERS COMPETENT AND DISCHARGING AIC.

EDGERS MOVES THE D.C.T. TO DENY ANY AND ALL MOTIONS FOR SAID C.O.A. FIRED IN THIS D.C.T. BY DISCHARGED AIC, FEDERAL DEFENDERS.

IN SUPPORT, EDGERS ASSETS:

1. ON 09-26-2016, MR. POLLUMBI, INFORMED EDGERS OF HIS INTENT TO FILE A MOTION FOR A C.O.A. WITHIN 30 DAYS OF THE DATED ORDER.

2. EDGERS DIRECTED "POLLUMBI" NOT TO FILE SAID MOTION, AS IT WOULD THWART EDGERS OWN EFFORTS IN THE PURSUIT OF HIS LEGAL AFFAIRS, EXACTLY AS AIC HAD ACCOMPLISHED IN THEIR A.C. ASSIGNMENT PREVENTING THIS D.C.T. FROM PREVENTING A COMPREHENSIVE RUNNING UPON EDGERS EXHAUSTED PRO SE FEDERAL CLAIMS.

3. THE D.C.T. FOUND THAT AIC WITHHELD FACTS AND EVIDENCE FROM EDGERS AND UNDISPUTED FACT (DIT 173 @ PAGE 34), WHICH PROMPTED EDGERS TO MOVE FOR SUCCESSOR AIC WITHOUT DELAY IN AUGUST 2014, TO PREVENT MEANINGLESS AND CHAOTIC FEDERAL A.C. PROCEEDINGS, ATTEMPTING TO PREVENT AIC FROM ABANDONING EDGERS PRO SE EXHAUSTED CLAIMS AND PROCEDURAL BAR EXCEPTIONS.

4. THIS D.C.T. DELIBERATELY CREATED A LINGRIT RECORD UPON AIC CONDUCT IN AUGUST 2014, WHICH WERE GROUNDS FOR SUCCESSOR AIC APPOINTMENT, ACKNOWLEDGED CURRENTLY ONLY TO MOVE FORWARD WITH EDGERS EXECUTION.

5. EX-AIC EFFORTS TO OBTAIN A C.O.A. SHALL CAUSE EDGERS UNDOE HARDSHIPS, TIME, FUNDS, RESOURCES, RESPONSIVE PETITIONS TO THE U.S. 11TH C.O.A. CIRCUIT FURTHER UNDOE DELAYS, ETC, ETC.

6. BECAUSE OF THIS CONTINUED DISRUPTION IN THE PROPER ADMINISTRATION OF CRIMINAL JUSTICE, I.E. UNDUDE DELAYS, ISSUES PRESENTED IN MEMORANDUMS CONTINUE TO LIVE AND ARE NOT MOOT IN THE U.S.S.C.T., IN RE EGGERS, #16-5861.

7. AGAIN, EGGERS HAS BEEN COMPELLED TO EXAMINE HIS LEGAL OPTIONS, CONCLUDING TO FILE A MOTION FOR A TEMPORARY STAY, CONCURRENTLY WITH THIS WAIVER OF TIME, ENCLOSED AND ATTACHED HERE-TO, PENDING THE DISPOSITION OF, IN RE EGGERS, #16-5861.

8. EGGERS HAS ALSO NOTIFIED THE A.S.C.T. OF THIS O.C.T. 09-21-2016 ORDER (OIT 173).

9. CIRCUMSTANCES SUCH AS THESE ARE THE EXACT REASONS WHY HYBRID REPRESENTATION IS UNWARRANTED AND WHY THIS D.C.T. SHOULD HAVE DISCHARGED A.C. BACK IN 2014, FINDING EGGERS INCOMPETENT, MOREOVER THAT SUCCESSOR A.C. WAS APPROPRIATE OR EXPLAINING WHY APPOINTMENT WOULD NOT BE APPROPRIATE ON THE RECORD.

10. IT IS DIFFICULT FOR A D.C.T. TO RULE AGAINST OFFICERS PERMITTED TO PRACTICE IN YOUR COURT HOWEVER SOMETIMES IT IS JUSTIFIED AND NECESSARY IN ACCORD WITH THE EVIDENCE.

11. A.C. IS SUPPOSE TO ASSIST A PETITIONER, NOT MISREPRESENT THEMSELVES AND THEN, THwart THE CLIENTS EFFORTS.

12. THE PETITIONER SHALL BELIEVE THAT THE GOVERNMENT HAS DELIBERATELY PLACED AN ENEMY IN HIS CAMP TO SABOTAGE HIS EVERY EFFORT. SAID PREMISES PRESENTED THE D.C.T. SHOULD ACCEPT SAID WAIVER, DENYING ANY AND ALL MOTIONS FOR A CERTIFICATE OF ADEQUACY, OUT OF TIME THEREFORE, DENIED!

W.E.
MICHAEL EGGERS 2-689
D.C.F. #1
100 Walton Lane
BESB., AL. 35023

PRO SE

U.S. D. CT. N.D. ALA. SO. DIVISION
 Eggers PET. } # 2:13-CV-01460
 ALA. RESP. } DATE: 09-29-2016

MOTION FOR AN ORDER DIRECTING
 A/C, "FEDERAL DEFENDERS" TO
 SURRENDER ALL LEGAL MATERIALS
 TO EGGERS WITHOUT DELAY

TO THE HONORABLE CLERK OF THE COURT;
 NOW COMES EGGERS, MOVING THE D. CT. TO ORDER
 A/C TO SURRENDER ANY AND ALL LEGAL DOCUMENTATION
 REQUESTED, OBTAINED, COLLECTED, CREATED, EXAMINED AND
 CONSIDERED BY A/C AND THEIR OFFICIAL REPRESENTATIVES,
 INVESTIGATORS, EXPERTS, ETC., DURING THE COURSE OF
 THEIR REPRESENTATIONAL MATERIAL TO THE ISSUES OF
 EGGERS CAPITAL CONVICTION AND PENDING MEMORANDUMS
 APPLICATION BEFORE THE U.S.S. CT., STYLED: IN RE EGGERS,
 #16-5861, AND EGGERS V ALA. #2:13-CV-01460-LSC,
 INCLUDING, HOWEVER, NOT LIMITED TO:

COPIES OF THE STATE AND FEDERAL RECORD, PETITIONS,
 ANONYMOUS APPLICATIONS, DIRECT APPEALS, A/CIA ORDERS,
 ALA. S. CT. ORDERS, HEARINGS, TRANSCRIPTS, NOTES, INVEST-
 IGATOR NOTES, I.E. RECORDS, MEDICAL RECORDS, JAIL
 RECORDS, REQUESTS FOR RECORDS, RESPONSES, EXPERT
 OPINIONS, TAPED DEPOSITIONS, VIDEO RECORDINGS, AUDIO
 RECORDINGS, EX PARTE MOTIONS, TELEPHONE BILLING RECORDS,
 STATE MOTIONS FOR DISCOVERY, MOTIONS, IDENTITIES OF
 PERSONS INTERVIEWED, AFFIDAVITS, DEPOSITIONS TAKEN,
 LAW ENFORCEMENT OFFICIALS INTERVIEWED (S.B.P.S.D.,
 U.S.F.B.I., E.P.P.D., K.P.D., FR. ST. TROOPERS, ETC., ETC.),
 F.I.O.I.P.A. REQUESTS/RESPONSES/APPEALS FILED, PHOTO'S
 COPIES, ETC. ETC.

IN SUPPORT OF SAID MOTION:

1. EGGERS ASSERTS THAT THE D. CT. HAS FOUND AN
 UNDISPUTED FACT THAT A/C HAS WITHHELD EVIDENCE AND
 FACTS FROM EGGERS DURING THEIR REPRESENTATION
 ABANDONING EGGERS FEDERAL CLAIMS WITHOUT AUTHORIZATION
 OR EXEMPTION.
2. SAID LEGAL DOCUMENTS ARE NECESSARY FOR EGGERS
 TO SUFFICIENTLY PLEAD AND PROVE HIS CLAIMS
 WITH ABSOLUTE CLARITY ACCURACY AND BREVITY
 IN THE U.S.S. CT., IN RE EGGERS #16-5861.
3. A/C MADE COUNTLESS FALSE ALLEGATIONS BEFORE

THIS D.C.T., (DIT 69), FAILING TO SUBSTANTIATE THEIR ALLEGATIONS DESIGNED TO HUMILIATE THIS COURT PREVENTING THE D.C.T. FROM FINDING EGGERS COMPETENT AND AUTHORIZING EGGERS TO PROCEED PRO SE AFTER A CLEAR AND UNEQUIVOCAL WAIVER OF A/C.

4. ETHICALLY, A/C HAS A DUTY TO SURRENDER ALL LEGAL DOCUMENTATION UNDER THE RULES OF PROFESSIONAL CONDUCT.

5. THIS D.C.T. DISCHARGED A/C ON 09-21-2014, (DIT 173).

A/C HAS REFUSED TO PRODUCE AND PROVIDE TO EGGERS, A COPY OF ANY AND ALL LEGAL DOCUMENTATION, DECLARING EGGERS HAS NO RIGHT TO OBTAIN SUCH RECORDS IN A CAPITAL CASE.

7. EGGERS REQUIRES THE POWER OF THE COURT TO EXPEDITE SUCH PRODUCTION, IN LIGHT OF THE PENDING ACTION IN THE HIGH COURT,

RESPECTFULLY,



MICHAEL EGGERS 2689

D.C.T., H-1

100 WARRIOR LANE

BESS., AL. 35023

PRO SE

IF THE COURT DENIES SAID MOTION, EGGERS REQUESTS A COMPREHENSIVE EXPLANATION.

CAPITAL CASE

EGGERS, PET. } # 2:13-CV-01460-LSC
V }
ALABAMA RESP. } DATE: 09-26-2016

CERTIFICATE OF SERVICE

I, MICHAEL W. EGGERS, DO HEREBY CERTIFY UNDER THE PENALTY OF PERJURY, THAT A COPY OF THE FOREMENTIONED MOTION FOR A STAY WAS SERVED UPON ALL INTERESTED PARTIES BY WAY OF U.S. FIRST CLASS MAIL, POSTAGE PRE-PAID ON THE 29TH DAY OF SEPTEMBER, 2016.

~~W. EGGERS~~
MICHAEL W. EGGERS 2-689
D.C.F. H-1
180 WARRIOR BLVD
BESS, AL. 35023-7299 PRO SE

PARTY SERVED:

ALABAMA ATTORNEY GENERAL'S OFFICE
ATTN: LUTHER STERNAGE
11 S. UNION STREET, 3RD FLOOR
MONTGOMERY, AL. 36104-0152

OTHER MOTIONS/DOCUMENTS SERVED HEREIN:

- A) MOTION TO SURRENDER LEGAL DOCUMENTS
- B) MOTION FOR STAY
- C) WAIVER OF TIME