

NO: _____

FILED: _____

IN THE
SUPREME COURT OF THE
UNITED STATES

In Re: Charles H. Lee, Jr.

February 15, 2018

ENTERING WRIT OF MANDAMUS
LA ÉSTERN DISTRICT COURT NO. 12-12-
CV-1185, U.S. FIFTH CIRCUIT
No. 10-31161

MAY IT PLEASE THE COURT,

NOW INTO THIS HONORABLE
COURT, comes petitioner-appell-
ant, Charles H. Lee, Jr., pro-se.
I respectfully move this

Court to review this Writ
of Mandamus due to the
reasons set forth.

APPENDIX INDEX

- APP.A-Ruling From the U.S. Fifth Circuit dated-10-11-2017
- APP.B-Petition For Panel Rehearing En Banc filed into the U.S. Fifth Circuit
- APP.C-Ruling granting Petition For Rehearing En banc dated-11-15-2017
- APP.D-From the U.S. Fifth Circuit; Panel Per Curiam treating the Panel Rehearing En banc as Panel Rehearing, denied, undated
- APP.E-Letter mailed to the U.S. Fifth Circuit; In Re; the court's denial, dated-12-5-17
- APP.F-Letter from the U.S. Fifth Circuit showing date of Rehearing Per curiam denial as 11-28-2017; letter dated 12-11-2017

QUESTION PRESENTED

Are Federal Circuit Courts allowed to GRANT a Petition For Rehearing En banc, and on a later date, deny the En banc Rehearing by a Panel-Per-Curiam treating the Petition For Panel Rehearing En banc as a Petition For Panel Rehearing?

LIST OF PARTIES

Mr. Donald G. Cassels, III
LA Bar #33765
Assistant District Attorney
Parish of Orleans
619 South White St.
New Orleans, LA 70119

STATEMENT OF JURISDICTION

This Court is vested with jurisdiction over this Writ of Mandamus with respect to the Rules of The Supreme Court of The United States: Part IV, Rule 203(a) Writ of Mandamus.

FEDERAL CONSTITUTION

U.S. Constitution Amend. 14TH

FEDERAL STATUTES

Fed R. App. P. 35

U.S. FIFTH CIRCUIT RULES

Fifth Circuit Rules 35

STATEMENT OF THE CASE

On October 11, 2017, after a petition to Appeal in forma pauperis was granted, the U.S. Fifth Circuit judges Higginbotham, Jones, and Costa denied the Certificate of Appealability as moot due to the Eastern District Judge not filing any form of written reason in regards to the COA-in connection with the GRANT OF IFP. see App. A

Within the allotted time, I filed for A Petition For Panel Rehearing En Banc. see App. B

On 11-15-17, the Petition For Panel Rehearing En Banc was GRANTED. see App. C

However, the same per curiam panel denied the Petition For

Panel Rehearing En banc by treating it as a Petition for Panel Rehearing. See App. D

On 12-5-17, (see App. E), I mailed a letter to the Fifth Circuit's Clerk placing the Court on notice that the per curiam was undated, and that the Court has previously granted the Petition for Rehearing En banc citing Fed. App. P. 35 and Fifth Circuit Rules 35. In the letter, I also stated to the Court that the Panel Per Curiam had no authority to rule on the En banc Rehearing, nor to treat it as a Petition for Rehearing. I requested, as well, that the majority of judges rule on the Petition for Rehearing En banc as it was granted as.

On 12-11-17, the Clerk mailed a letter citing the Court's ruling date as 11-28-2017. The letter also stated that no action will be taken, and that the Court gives no written reasons nor does it comment on its orders. See App. F

I now file this Writ of Mandamus as follows.

BASIS FOR THIS MANDAMUS

The basis for this Mandamus is due to the U.S. Fifth Circuit's non-compliance with Fed App. P. 35-En Banc Determination, and the U.S. Fifth Circuit Rule 35.

With respect to Fed App. P. 35, once the Petition For Rehearing En Banc was GRANTED (see App. C), the Panel Per Curiam had no authority to rule on the Petition For Rehearing En Banc or treat it as a Panel For Rehearing.

The grant of the En Banc determination was Confirmation that the polling and voting has taken place.

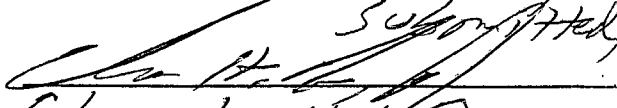
The actions by the Fifth Circuit are not supported by the Congressional intent
9.

of Fed. App. P. 35, nor the
U.S. Fifth Circuit Rules, nor
are the Fifth Circuit's actions
supported by clearly established
law established by this Court.

CONCLUSION

Due to the explained reasons,
I humbly request that this Court
afford me the Equal Administrat-
ion and the Equal Protection of
laws as provided by the 14TH Amend-
ment in accordance with the due
process that the GRANT of an
En banc determination entails.

Done this 15TH day of February, 2018

Respectfully
Submitted,

Charles H. Lee, Sr.
#386633
La State Prison
Angola, LA 70712

AFFIDAVIT

I, Chas H. Lee, Jr., do here by
swear and affirm that the
foregoing is true and correct.

Done this 15TH day of February, 2018

Respectfully

Submitted,

Chas H. Lee, Jr.

Charles H. Lee, Jr.

#386633

LA State Prison

Angola, LA 70712