

****THIS IS A CAPITAL CASE****

No. 23-6912

**IN THE
SUPREME COURT OF THE UNITED STATES**

Samuel Fields, Petitioner,

v.

Laura Plappert,
Warden, Kentucky State Penitentiary, Respondent.

On Petition for Writ of Certiorari
to the Sixth Circuit Court of Appeals

MOTION FOR LEAVE TO FILE OUT-OF-TIME PETITION FOR REHEARING

Petitioner Samuel Fields respectfully moves for leave to file the annexed petition for rehearing of the order of this Court denying the petition for writ of certiorari in this case, entered on June 10, 2024. No timely petition for rehearing was filed because no grounds for such a petition then existed. But rehearing is sought at this time because, as is pointed out more fully in the annexed petition for rehearing, this Court rendered its decision in *Andrew v. White*, 145 S. Ct. 75 (2025), on January 21, 2025, which is in direct conflict with the Sixth Circuit's judgment in the instant case.

Although this petition for rehearing is filed after the expiration of the time prescribed in Rule 44.1, the grounds for this petition arose after such time.¹ This Court has power, in its discretion and in the interests of justice, to entertain the petition in these circumstances. *See, e.g., United States v. Ohio Power Co.*, 353 U.S. 98 (1957); *Gondeck v. Pan. American World Airways*, 370 U.S. 918 (1962). Mr. Fields respectfully requests that the Court grant leave to file his petition and award all other appropriate relief.

Respectfully submitted,



Daniel E. Kirsch*
Assistant Federal Defender
Michelle M. Law
Assistant Federal Defender
Capital Habeas Unit
Federal Public Defender
Western District of Missouri
1000 Walnut St., Ste. 600
Kansas City, MO 64106
816-675-0923
daniel_kirsch@fd.org
michelle_law@fd.org

Counsel for Samuel Fields

**Counsel of Record*

¹ Prior to seeking rehearing in this Court, Mr. Fields moved for the Sixth Circuit to recall its mandate in light of *Andrew*. On April 2, 2025, the en banc Sixth Circuit denied the motion to recall. However, five judges dissented and would have granted the motion. In a separately filed petition for certiorari, Fields requests this Court's review of the Sixth Circuit's divided opinion regarding the recall of the mandate. *See, e.g., Calderon v. Thompson*, 523 U.S. 538, 548-49 (1998) (reviewing en banc decision in which four judges dissented on the question of whether a recall of the mandate was justified).