

No. 25-5044

IN THE SUPREME COURT OF THE UNITED STATES

ROBERT BAISE, JR. — PETITIONER

vs.

PHILLIP MITCHELL, WARDEN, et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

PETITION FOR REHEARING

Robert Baise, Jr., Robert Baise, Jr., Pro Se, AIS # 216673, Limestone Correctional Facility, 28779 Nick Davis Rd., Harvest, AL 35749

Phone Number: N/A

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STATEMENT OF PURPOSE

COMES now, the petitioner Robert Baise, Jr., hereinafter ("Baise" or "Petitioner") in the afore-styled cause due to the United States District Court for the Northern District of Alabama and United States Court of Appeals for the Eleventh Circuit factual determination that Baise appeal was not taken in good faith and ordering Baise 14 days to pay for the appeal which this cause concerns conflicts with the Supreme Court of the United States determination that Baise was not required to pay the docket for his Petition for a Writ of Certiorari under Supreme Court Rule 38(a), nor did the Supreme Court of the United States require Baise to pay the filing fee for the current Petition for Rehearing under Supreme Court Rule 38(b). See, Farley v. United States, (1957) 1354 US 521, 1 LE2d 2415291, 77S Ct 1371.

Withstanding, Baise contends consideration by the full court is therefore necessary to secure and maintain uniformity of the Court's decisions because this Court obviously determined Baise claims presented in his § 2254 Petition for a Writ of Habeas Corpus and Petition for a Writ of Certiorari was not frivolous or malicious.

Robert Baise, Jr.

ARGUMENT

Baise states on 6/24/25, his Petition for a Writ of Certiorari and Motion for Leave to Proceed in Forma Pauperis was filed and this Court ordered a response was due on 8/7/25, (*see appendix C-7*) and on 8/21/25, it was DISTRIBUTED for Conference of 9/29/25, (*see appendix B-7*) and on 10/6/25, this Court entered an order to the Clerk of the United States Court of Appeals for the Eleventh Circuit that Baise Petition for a Writ of Certiorari is denied (*see appendix A-7*), and simultaneously issued him an order that his Petition for a Writ of Certiorari is denied (*see appendix A*). See also, Boumediene v. Bush, 550 U.S. 1301, 127 S.Ct. 1725, [167 L.Ed. 2d 757], 2007 U.S. LEXIS 4743 (2007) A order denying certiorari is plainly not "judgment or decision on merits."

Baise pro se the United States District Court for the Northern District of Alabama and United States Court of Appeals for the Eleventh Circuit certified his appeal was not taken in good faith and required that he pay for it (Doc. 25-1 pg 1-3, Doc. 25-2 pg 1) and within his Petition for a Writ of Certiorari under "The Questions Presented for Review" he challenged said certification in question #5: "Whether, Baise appeal was not taken in good faith." See Farley v. United States, (1957) 354 US 521, 1 L Ed 2d 1529, 77 S Ct 1371. A federal trial court's certification under 28 USC § 1915(a) of a lack of good faith is not conclusive and may be challenged. See also, 121 L Ed 2d 817 *Forma Pauperis* - Federal Courts IV § 11. View that certification is not conclusive; weight to be given, and, § 12. Use of frivolousness standard in determining whether to allow appeal.

Withstanding, Baise avers on 10/9/25, his mother contacted the Supreme Court of the United States and the

Clerk of this Court informed her that this Court rejected his Petition for a Writ of Certiorari on 10/6/25, and on 10/10/25, his mother contacted this Court again asking did this Court rule on his Motion for Leave to Proceed in Forma Pauperis and was he required to pay the docket fee for said petition and said Clerk informed her that he had 25 days to file a Petition for Rehearing and he didn't have to pay for it."

Therefore, this Court wasn't satisfied or convinced with the lower federal courts certification that Baise claim-
s/petition(s)/appeal were frivolous or malicious because it didn't deny him Leave to Proceed in Forma Pauperis under Supreme Court Rule 40.8 on his Petition for a Writ of Certiorari and Supreme Court Rule 44.2, provides in pertinent part: "Any petition for the rehearing of an order denying a petition for a writ of certiorari shall be filed within 25 days after the date of the order of denial and shall comply with all the form and filing requiremen-

ts 'including the payment of the filing fee under Rule 38(b) in any case in which the filer paid the filing fee under Rule 38(c)'."

As a result, the foregoing constitutes an intervening circumstance of a substantial and controlling effect pursuant to Supreme Court Rule 44.2 which provides in pertinent part: "Any petition for the rehearing of an order denying a petition for a writ of certiorari . . . shall be limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented," and Baise contends his Petition for Rehearing is timely therefore, his Petition for a Writ of Certiorari and Petition for Rehearing are entitled to a full consideration on the merits by this Court. See Richmond v. Arizona, 434 U.S. 1323, 98 S.Ct. 8, 54 L.

E1.23 341, 1977 U.S. LEXIS 4367 (1977) Headnotes # 3: A motion for rehearing of an order of the United States

Supreme Court denying certiorari does not automatically suspend the order during the term, "UNLIKE A PETITION FOR REHEARING AFTER FULL CONSIDERATION OF THE CASE ON THE MERITS".

II.

Additionally, Baise states that when he filed his Petition for a Writ of Certiorari on 6/24/25, the United States Court of Appeals for the Eleventh Circuit 1/22/25, "DO NOT PUBLISH" opinion (Doc: 84-1 pg 1-4), was not listed on the computers at his current facility and within his Petition for a Writ of Certiorari on pg. 1 under "Opinions Below" he listed: "The opinion of the United States court of appeals is unpublished," and, Baise avers it wasn't listed in July or August, 2025., but then on or around September 19, 2025., he noticed said "DO NOT PUBLISH" opinion, was now listed on the computers at his current facility under Baise v. Limestone CE Warden,

AG of Ala, 2025 U.S. App. LEXIS 1381 (5th and 11th Cir. Ala., Jan. 22, 2025).

Therefore, Baise avers he immediately, prepared and mailed a "Motion to Amend" to this Court requesting leave to amend his Petition for a Writ of Certiorari adding said facts on or around September 23, 2025.

Withstanding, Baise contends this Court did not rule on said "Motion to Amend" and the foregoing also constitutes an intervening circumstance of a substantial and/or controlling effect pursuant to Supreme Court Rule 44.2.

REASONS FOR GRANTING THE WRIT

Baise protest this Court did not find his claims or case frivolous or malicious and the United States Court of Appeals for the Eleventh Circuit 1/22/25, "DO NOT PUBLISH" opinion, has been made available in a publicly accessible electronic database therefore, his case has become Nationally important because it involves one or more questions of exceptional importance which will help and benefit not only him but to others similarly situated now and in the future.

CONCLUSION

WHEREFORE, facts and circumstances considered, petitioner respectfully pray this Honorable Court grant him full consideration of his case on the merits.

Dated: October 21, 2025.

Respectfully submitted,

Robert Baise, Jr., Robert Baise, Jr., Pro Se, ATS # 216673

Limestone Correctional Facility, 28774 Nick Davis Rd., Harvest, AL 35749

VERIFICATION

I hereby verify that the matters alleged herein and therein are true, except as to matters alleged on information and

belief, and, as to those, I believe them to be true. I certify under penalty of perjury that the foregoing is true and correct.

Executed at Harvest, Alabama on October 21, 2025.

Robert Baise, Jr., Robert Baise, Jr.

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ROBERT BAISE, JR.

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IN THE SUPREME COURT OF THE

Petitioner

*

UNITED STATES, Case No. 25-5044

vs.

*

ELEVENTH CIRCUIT COURT OF APPEALS, Case No. 22-13201-J

PHILLIP MITCHELL, WARDEN, et al.

*

UNITED STATES DISTRICT COURT FOR THE

Respondents)

*

NORTHERN DISTRICT OF ALABAMA, Case No. 4:21-cv-1403-RDP-JHE

CERTIFICATION OF UNREPRESENTED COUNSEL

State of Alabama

County of Limestone

—

Sworn Affidavit of Petitioner

I, Robert Baise, Jr., the petitioner and Pro Se in the above-styled cause states as follows in the form of an affidavit.

Before me a notary public in and for said State and County personally appeared Mr. Robert Baise, Jr.,

ATS# 216673, who first being duly sworn deposes and says under oath as follows:

I, Robert Baise, Jr., hereby certify that the foregoing petition for rehearing is restricted to the grounds specified in Supreme Court Rule 44.2 and it is presented in good faith and not for delay and the petition for a writ of certiorari and petition for rehearing was and are true in point of fact and I certify under penalty of perjury that the foregoing is true and correct.

Sworn to before me on this 21 day of October, 2025.

Notary Public: Bernice Randolph Orr

Affiant's Signature: Robert Baise, Jr.

My Commission Expires: 08-09-2028

Affiant's Printed Name: Robert Baise, Jr.

Respectfully submitted,

Robert Baise, Jr., Robert Baise, Jr.

AIS # 216673, Pro Se

Limestone Correctional Facility, 28779 Nick Davis Rd., Harvest, AL 35749

VERIFICATION

I hereby verify that the matters alleged in the Certificate of Unrepresented Counsel are true and I certify under penalty of perjury that all of the foregoing is true and correct.

Executed at Harvest, Alabama on October 21, 2025.

Robert Baise, Jr., Robert Baise, Jr.

CERTIFICATE OF SERVICE

I, Robert Baise, Jr., do hereby swear that I have served a true and correct copy of the foregoing petition

for Reaching and Certification of Unrepresented Counsel upon all concerned parties and upon:

Clerk, Supreme Court of the United States, 1 First Street, N.E., Washington, DC 20543;

United States Court of Appeals, Eleventh Circuit, Office of the Clerk, 56 Forsyth Street, N.W., Atlanta, Georgia 30303;

Solicitor General of the United States, Room 5616, Department of Justice, 950 Pennsylvania Ave., N.W., Washington, DC 20530-0001;

United States District Court, Office of the Clerk, Northern District of Alabama, Room 140, United States Courthouse,

1729 5th Avenue North, Birmingham, Alabama 35203;

Governor Kay Ivey, Alabama State House, 600 Dexter Ave., Room N-104, Montgomery, AL 36130;

Steve Marshall, State of Alabama, 501 Washington Ave., P.O. Box 300152, Montgomery, AL 36130-0152;

Marc A. Starrett, Alabama Attorney General's Office, 501 Washington Ave., Montgomery, AL 36130;

Alabama Department of Corrections, Suite A2-504, P.O. Box 301501, Montgomery, AL 36130; and

Phillip Mitchell, Warden, Limestone Correctional Facility, 28779 Nick Davis Road, Harvest, AL 35749

by placing same in the Limestone Correctional Facility United States Mail, postage prepaid and properly add-

ressed on this 21 day of October, 2025.

Robert Baise, Jr., Robert Baise, Jr.

ATS # 216673

Limestone Correctional Facility, 28779 Nick Davis Road, Harvest, AL 35749

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