

25-5888

No. _____

ORIGINAL

USCA#24-16702

IN THE
SUPREME COURT OF THE UNITED STATES

FILED
FEB 12 2025

OFFICE OF THE CLERK
SUPREME COURT, U.S.

Michael Allen Powell — PETITIONER
(Your Name)

vs.

Bobby Lumpkin — RESPONDENT(S)
(ER) C Guevara
ON PETITION FOR A WRIT OF CERTIORARI TO

5th Circuit Court of Appeals of the United States
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Michael Allen Powell
(Your Name)

264 FM 3478
(Address)

Huntsville TX 77320
(City, State, Zip Code)

—
(Phone Number)

ORAL ARGUMENT
requested

Questions to the Court

1. The court was without jurisdiction to refuse to file a certified trust fund statement, and pretend it didn't receive it?
2. The court violated procedural rules, that require intervention?
3. The court is without jurisdiction to demand that a rule 60 motion be refiled on a 28 USC 52254 form?
4. The Fifth Circuit did have jurisdiction of this appeal?

Parties

Michael A Powell
264 FM 3978
Huntsville TX 77320

petitioner

Bobby Lumpkin
TDCJ Director

Respondents

Ken Paxton
P.O. Box 12548
Austin TX 78711

State Judge

Elizabeth Beach Tarrant County Criminal Dist. Court #1
401 W Belknap St. Ft. Worth TX 76196

State/county prosecutor

Phil Sorells 401 W Belknap St. Ft. Worth TX 76196

Table of Contents

Questions to the court	1
Parties	2
Citations of previously filed cases	3
Citations of the case	4
Jurisdictional Statement	5
Argument / Authority	8-12
relief	13
certificate of service	13
Answer Declaration	13
Appendix : exhibit #1 rule 60 motion Exhibit #2 order of Dist. Court. Exhibit #3 order of 5th Circuit	

Contents of Appendix

Rule 60 Motion filed with Dist Court	10 pages
Order of Dist Court Judge	1 pg
Order of 5th Circuit	2 pg

Federal Court citations

Gonzalez V Crosby 545 US 524

Citations of
Previously Filed Cases
(List of all state and federal proceedings related)

Powell V State 2008 Tex App. Lexis 207
Powell V State 2008 Tex. Crim App. unpub. Lexis 242
IN Re Powell 2008 Tex Crim. App. Lexis 656
Powell V Currey 2008 US Dist Lexis 54251
Powell V Currey 328 Fed Appx. 940, 2009 US App Lexis 10516
Powell V Currey 558 US 972
Powell V Wilson 2009 US Dist. Lexis 57861
Powell V Thaler 2011 US Dist. Lexis 119886
Powell V Allen 2016 Tex. App. Lexis 7789
Powell V Wilson 2016 Tex Lexis 922
Powell V Hodgkins 2022 Tex App. Lexis 6727
Powell V Hodgkins 2023 Tex App Lexis 1518
IN Re Powell 2024 Tex. App Lexis 382
IN Re Powell 2023 Tex. App Lexis 1774
IN Re Powell 2024 Tex Crim App. unpub. Lexis 100
Ochsner V Hodgkins 2024 US Dist Lexis 19307 *Powell V Lumpkin 2024 US App. Lexis 31110

* Filed Leetberari in Jan 7 2024

Renamed (Powell V Hodgkins 2024 US App. Lexis 31110)

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

reported at Powell v Lumpkin 2024 US App Lexis 31110; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
 is unpublished.

[] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

JURISDICTION

[] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was December 9, 2024.

[] No petition for rehearing was timely filed in my case.

[] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[] For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

[] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

Citations of the Case

1. Northern District Federal Court Ft Worth, Texas Div
Michael A Powell V State of Tx 4:24 CV 614 P 7/2/24
2. Powell V Lumpkin 24-10702
United States 5th Circuit Court of Appeals
Rendered on December 9, 2024
3. No Rehearing -

Jurisdictional Statement

This is an appeal of Powell V Lumpkin 24-10702 in the 5th Circuit Court of Appeals of a decision rendered on December 9, 2024 and rule governing jurisdiction under rule USC 2101(e).

The Supreme Court has jurisdiction under 28 USC 1251 and the 11th Amendment of the United States Constitution.

~~Alternatively, under a theory of res judicata~~
~~or collateral estoppel~~

~~Handwritten Statement~~

Statement of the Case

Michael A. Powell filed a rule 60 B motion, which included a certified trust fund statement, an affidavit of indigency with the Northern Federal District Court of Ft. Worth on June 18 2024. The court received it on July 1 2024 and docketed it as 4:24-cv-614(P).

The Motion Challenged the integrity of the State Process in Powell v State of Tx. # C-1-WO-12366-09554682 WR 71,37911.

The Northern dist court, ordered it redrawn, and construed it as a 2254, and demanded it be on a 2254 form, and denied that they had received a certified trust fund statement. When in fact, it had. On July 2 2024, the District court ordered the petition/motion dismissed, if not redrawn, Powell gave notice of interlocutory appeal on July 30 2024 on December 4 2024 The 5th Circuit dismissed for lack of jurisdiction # 24-10702

Powell now appeals this cause 24-10702
from the 5th Circuit, and rule governing
jurisdiction under rule 2101(e)

Alternatively rule 10 Constitution/ Amend.
Number 10 of the United States Constitution
and 28 USC 1251

~~Attentively~~ ~~RE~~ ~~RE~~

Argument and authority

Judge Mark Pittman, is a bald faced lie, that should be removed from the bench now, before he causes the lives of others harm, or embarrasses the judicial branch.

I filed a rule 60B motion, challenging a state court process that refused to follow the law, (TCCP art 11.07) see exhibit #1. Because Tarrant County is Protecting and covering up, for a career criminal, Shaeen Wilson.

I filed an inmate trust fund certificate and a form sent by the court. All were filed.

The case was assigned to Judge Mark Pittman who decreed that it was construed as a 2254, and that it needed to be redrawn.

see exhibit #2. But this process is not be challenged on a 28 USC 2254.

on the 2nd day of July 2021, Judge Pittman, who did not file the certified trust fund statement, sent with the motion, pretended not to have received it, and gave the addressee, that I not be allowed to proceed IFP. A Rule 60 B motion does not cost a fee. However, to prevent the filing of the rule 60 motion, the judge ordered the motion be declared a 28 USC's 2254, And ordered it re drawn, declaring it a deficiency, due to his own rule, that it be filed on a form. Then demanded \$5.00, lying about the affidavit, and the sent trust fund certified statement. The judge is without jurisdiction to do so, and has departed from normal process, that requires intervention. A rule 60 B motion is proper, if it challenges the integrity of the process. *Gonzales v Crosby* 345 US 524

In my circumstance, if the court construes a Rule 60 B motion to be a 2254, there is absolutely no provision in law, that allows a district judge, to demand the "refiling" of a Rule 60 B motion, onto a 28 USCS 2254 form, and to deny IFP.

The act, if left un punished, by this court, would allow the circumvention of procedure, and appeal, for the abuse of discretion, of the mis-construe of a proper Rule 60 B motion.

This court, is without jurisdiction, and needs to be sanctioned.

The 5th circuit, claims lack of jurisdiction, and I find no law to counter this judicial sophistry, And judicial trick, by the District Court.

See exhibit # 3

extraordinary circumstances warrant relief, for this
interlocutory appeal

This court is setting a precedent, where it can violate
the law, by lying, then requiring amendment,
which would no longer be challengeable on appeal.

A 28 USCS 2254, would not allow the appeal of a
rule 60 B motion, in its final judgement.

Judicial activism is present.

A 2254, would rely on state findings. Which are
achieved through TCCP art 11.07.

By the state circumventing their own process, in
violation of the law, they have infected the process
of federal habeas, in an unappealable nature, under
2254.

The integrity of the state process is being challenged
Michael Allen Powell deserves a ruling. Not tricks.

The Texas judicial bench, (both State and Federal)
are rogue. The supreme court must step in.

Reasons for getting Certiorari

There is absolutely no provisions in law, to analog with this case.

By the Northern Dist Judge, declining the rule 60 B motion # 2254. But

Instead of giving such an order, and instead ordering the rule 60 B motion redrawn into a 2254, and demanding a 2254 form, the court is attempting to circumvent such an order.

If the 5th circuit, in turn, refuses to accept an introductory appeal of this decision they have both conspired to legally obstruct justice under the color of law.

Therefore, not allowing the filing of a rule 60 B(6) motion. Furthermore, "hiding" the process, by Administrative orders and rules.

Circumventing a final decision, and appeal. Of whether or not this was in fact, a rule 60 B (6) motion, or a successive petition.

The courts are legally obstructing a filing.

Certificate of service

A true and correct copy of this motion was sent to Texas Attorney General Ken Paxton, P.O. Box 12548 Austin Tx 78711 on this 29 day of January 2025



written declaration

I declare the facts herein to be true, to the best of my knowledge under the penalty of aggravated perjury. My Name is Michael A. Powell, #1342523 incarcerated at 264 Fm 3478 Huntsville Tx 77320

on this 29 day of

January 2025

