No. 25-6232 **ORIGINAL**

IN THE

SUPREME COURT OF THE UNITED STATES

STANLEY FOSTER BAKER — PETITIONER
(Your Name)

vs.

ERIC GUERRERO — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

STANLEY FOSTER BAKER
(Your Name)
William P. Clements Unit
9601 Spur 591, Amarillo, TX 79107-9606
(Address)

Amarillo, TX 79107-9606
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1) On the unusual facts of my case – including the whole record, pleadings and evidence presented, Respondent's admissions legally obtained during the proceedings pursuant to the district courts' order to conduct discovery, and Respondent's/State's direct interference with my appeal – did the Fifth Circuit Court of Appeals err (abuse its discretion) when it determined I failed to show that jurists of reason could debate whether the district court abused its discretion in denying my Rule 60(b)(1) motion?

2) On the unusual facts of my case – including the whole record, pleadings and evidence presented, Respondent's admissions legally obtained during the proceedings pursuant to the district courts' order to conduct discovery, and Respondent's/State's direct interference with my appeal – did the Fifth Circuit Court of Appeals err (abuse its discretion) when it failed to issued a certificate of appealability (COA) and allow me to appeal the district court's October 31, 2024 judgment?

3) Did the Fifth Circuit Court of Appeals err (abuse its discretion) by sanctioning the district courts' impermissibly higher burden in direct conflict with Federal Rules of Civil Procedure 60(b)(1) and the Court's decision in Kemp v. United States, 596 U.S. 528, 142 S.Ct. 1856, 213 L.Ed.2d 90 (2022)?

LIST OF PARTIES

[✓] All parties appear in the caption of the case on the cover page.

[ ] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

STANLEY FOSTER BAKER v. BOBBY LUMPKIN, Civil No. SA-22-CA-01285-OLG, U.S. District Court for the Western District of Texas. Judgment entered Dec. 18, 2023.

STANLEY FOSTER BAKER v. BOBBY LUMPKIN, Civil No. SA-22-CA-01285-OLG, U.S. District Court for the western District of Texas. Judgment entered Jan. 26, 2024.

STANLEY FOSTER BAKER v. BOBBY LUMPKIN, Civil No. SA-22-CA-01285-OLG, U.S. District Court for the Western District of Texas, Judgment entered Oct. 31, 2024

BAKER v. GUERRERO, 2025 U.S. App. LEXIS 15277, No. 24-50957, U.S. Court of Appeals for the Fifth Circuit, Judgment entered June 20, 2025

BAKER v. GUERRERO, No. 24-50957, U.S. Court of Appeals for the Fifth Circuit, Judgment entered August 01, 2025

RELATED CASES

BAKER v. LUMPKIN, No. 24-50153, U.S. Court of Appeals for the Fifth Circuit, Judgment entered May 31, 2024

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TABLE OF AUTHORITIES CITED

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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 A to the petition and is

[✓] reported at 2025 U.S. App. LEXIS 15277; 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 B 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 JUNE 20, 2025.

[ ] 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: AUGUST 01, 2025, and a copy of the order denying rehearing appears at Appendix C.

[ ] 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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1) United States Constitution Amendment 14 - Sec. 1 [Citizens of the United States].

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

2) 28 U.S.C. §2253 (a) in a habeas corpus proceeding or a proceeding under section 2255 before a district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit in which the proceeding is held.

(c) (1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from -

(A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, or

(B) the final order in a proceeding under section 2255.

(2) A certificate of appealability may issue under paragraph (1) only if the applicant has made a substantial showing of the denial of a constitutional right.

(3) The certificate of appealability under paragraph (1) shall indicate which specific issue or issues satisfy the showing required by paragraph (2).

3) Federal Rules of Civil Procedure 59 (e) and 60(b) - see Appendix

4) Rules Governing Section 2254 Cases - Rule 6 - see Appendix

5) 28 U.S.C. §2244(d)(1)(A)-(D) - see Appendix

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

3) Federal Rules of Civil Procedure 60. Relief From a Judgment or Order

(b) Grounds for Relief from a Final Judgment, Order, or Proceeding. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

(1) mistake, inadvertance, surprise, or excusable neglect;

(2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under 59 (b);

(3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;

(4) the judgment is void;

(5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or

(6) any other reason that justifies relief.

(c) Timing and Effect of the Motion.

(1) Timing. A motion under Rule 60(b) must be made within a reasonable time - and for reasons (1), (2), and (3) no more than a year after the entry of the judgment or order or the date of the proceeding.

(2) Effect on Finality. The motion does not affect the judgment's finality or suspend its operation.

(d) Other Power to Grant Relief. This rule does not limit a court's power to:

(1) entertain an independent action to relieve a party from a judgment, order, or proceeding;

(2) grant relief under 28 U.S.C. §1655 to a defendant who was not personally

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

notified of the action; or

(3) set aside a judgment for fraud on the court.

(e) Bill and Writs Abolished. The following are abolished; bills of review; bills in the nature of bills of review, and writs of coram nobis, coram vobis, and audita querela.

3) Federal Rule of Civil Procedure 59 (e) - Motion to Alter or Amend a Judgment. A motion to alter or amend a judgment must be filed no later than 28 days after the entry of the judgment.

5) 28 U.S.C. §2244 (d)(1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -

(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

(2) The time during which a properly filed application for State post-conviction

or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

4) Rules Governing Section 2254 Cases - Rule 6. Discovery

(a) Leave of court required. A judge may, for good cause, authorize a party to conduct discovery under the Federal Rules of Civil Procedure and may limit the extent of discovery. If necessary for effective discovery, the judge must appoint an attorney for a petitioner who qualifies to have counsel appointed under 18 U.S.C. § 3006A.

(b) Requesting discovery. A party requesting discovery must provide reasons for the request. The request must also include any proposed interrogatories and requests for admission, and must specify andy (any) requested documents.

(c) Deposition expenses. If the respondent is granted leave to take a deposition, the judge may require the respondent to pay the travel expenses, subsistence expenses, and fees of the petitioner's attorney to attend the deposition.

6) Federal Rules of Civil Procedure 36. Requests for Admission

(a) Scope and Procedure.

(1) Scope. A party may serve on any other party a written request to admit, for purposes of the pending action only, the truth of any matters within the scope of Rule 26(b)(1) relating to:

(A) facts, the application of law to fact, or opinions about either; and

(B) the genuineness of any described documents.

(2) Form; Copy of a Document. Each matter must be separately stated. A request to admit the genuineness of a document must be accompanied by a copy of the document unless it is, or has been, otherwise furnished or made available for inspection and copying.

(3) Time to Respond; Effect of Not Responding. A matter is admitted unless, within 30 days after being served, the party to whom the request is directed serves on the requesting party a written answer or objection addressed to the matter and signed by the party or its attorney. A shorter or longer time for responding may be stipulated to under Rule 29 or be ordered by the court.

(4) Answer. If a matter is not admitted, the answer must specifically deny it or state in detail why the answering party cannot truthfully admit or deny it. A denial must fairly respond to the substance of the matter; and when good faith requires that a party qualify an answer or deny only a part of a matter, the answer must specify the part admitted and qualify or deny the rest. The answering party may assert lack of knowledge or information as a reason for failing to admit or deny only if the party states that it has made reasonable inquiry and that the information it knows or can readily obtain is insufficient to enable it to admit or deny.

(5) Objections. The grounds for objecting to a request must be stated. A party must not object solely on the ground that the request presents

a genuine issue for trial.

(6) Motion Regarding the Sufficiency of an Answer or Objection. The requesting party may move to determine the sufficiency of an answer or objection. Unless the court finds an objection justified, it must order that an answer be served. On finding that an answer does not comply with this rule, the court may order either that the matter is admitted or that an amended answer be served. The court may defer its final decision until a pretrial conference or a specified time before trial. Rule 37(a)(5) applies to an award of expenses.

(b) Effect of an Admission; Withdrawing or Amending It. A matter admitted under this rule is conclusively established unless the court, on motion, permits the admission to be withdrawn or amended. Subject to Rule 16(e), the court may permit withdrawl or amendment if it would promote the presentation of the merits of the action and if the court is not persuaded that it would prejudice the requesting party in maintaining or defending the action on the merits. An admission under this rule is not an admission for any other purpose and cannot be used against the party in any other proceeding.

STATEMENT OF THE CASE

This case involves a highly unusual set of facts, including Respondent's (state's) admissions to the validity of the factual predicate(s) alleged and constitutional violations claimed.

Having finally received the repeatedly requested audio recording of volume 2 of 11 (pre-trial hearing), I discovered a new factual predicate that was previously unknown to me or my attorney - the audio recording had been altered/edited. Consequently, I filed my state habeas corpus application on June 06, 2022 (stamped 06/21/22). I had not previously filed my state habeas petition due to state interference with my pre-trial, trial, and appellate proceedings, and instead sought the help of the federal courts and agencies due to the fact the state court remedies had proven inadequate and ineffective in protecting my constitutional rights. My state habeas petition was dismissed, without adjudication on the merits or the granting of the requested evidentiary hearing, on November 02, 2022.

Basing the one-year limitations period on the date I received the audio recording of volume 2 of 11 (November 23, 2021) and the state interference that prevented me from timely filing (28 U.S.C. §2244(d)(1)(B) and (D)), I filed my 28 U.S.C §2254 application - timely - on November 22, 2022 claiming thirteen (13) grounds for relief. The district court ordered the Respondent/State to answer. Respondent filed its answer and an incomplete/inaccurate state court record.

Thereafter, on March 24, 2023 I filed a motion with the district court requesting a copy of the records Respondent filed. On May 12, 2023 I received a copy of the records Respondent filed in the district court. While inspecting said records, I not only confirmed that the records were incomplete/inaccurate, I also discovered a second factual predicate previously unknown to me or my attorney - that court reporter/recorder Lori Schmid had deleted/destroyed the repeatedly requested audio recordings of volumes 6, 7, 8, 9 within ten (10) months of my trial. I further discovered that the Four Court of Appeals (direct appeals court) had known this material and dispositive fact needed for my appeal, but failed to notify me or my attorney of this fact despite the court obtaining this information solely due to my request for the court's assistance due to state interference.

On May 23, 2023, I filed a motion/objection requesting the district court's help in obtaining the omitted records, exhibits, and information from Respondent/State. On June 07, 2023, the district court answered my motion for assistance and ordered me to conduct discovery. On June 18, 2023, I properly served the trial court, Respondent (party), and the district court with a request for discovery/disclosure that included twenty-seven (27) requests

REASONS FOR GRANTING THE PETITION

I, Stanley Foster Baker, hereby respectfully and humbly petition the Honorable Court (herein after the Court) for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit (herein after FCCOA) in connection with its June 20, 2025 judgment - and the district court's decision it sanctioned - denying my motions for certificate of appealability (COA), in forma pauperis (IFP), and to recall its previously issued mandate issued May 31, 2024.

As shown in this petition, the FCCOA has decided an important federal question in a way that conflicts with relevant decisions of the Court; has sanctioned a decision by the district court as to call for an exercise of the Court's supervisory power; and has decided an important question of federal law in a way that conflicts with the decisions of a United States Court of Appeals - including its own (FCCOA).

In my timely and procedurally correct Rule 60(b)(1) motion (ECF No. 42) - filed solely due to Respondent's interference with my appeal of the district court's December 18, 2023 and

January 26, 2024 judgments (ECF Nos. 31, 32, 34), I argued the district court should reopen its judgment due to error(s) (mistake(s)) in its judgment as defined in the Court's decisions in Kemp v. United States, 596 U.S. 528, 142 S. Ct. 1856, 213 L. Ed. 2d 90 (2022); Koon v. United States, 518 U.S. 81, 116 S. Ct. 2035, 135 L. Ed. 2d 392 (1996); Cooter & Gell v. Hartmax Corp., 496 U.S. 384, 110 S. Ct. 2447, 110 L. Ed. 2d 359 (1990) (see ECF No 42).

I argued the following errors (mistakes) in my Rule 60 (b)(1) motion: (ECF No. 42):

A) The district court erred (made a mistake) and abused its discretion when it failed to follow the law, as mandated by 28 U.S.C. § 2244 (d)(1)(B) and (D), and determine the date(s) in order to correctly calculate the one year limitations period.

B) The district court erred (made a mistake) and abused its discretion when it failed to hold Respondent to its initial burden of pleading and proving its affirmative statute of limitations defense, and shifted the burden to me.

C) The district court erred (made a mistake) and abused its discretion when it failed to follow the Federal Rules of Civil

Procedure, Rules Gov. Sec. 2254 Cases in the Dist. Cts. - Rule 6, and controlling law when it ignored Respondent's legally obtained admissions during discovery ordered by the district court.

D) the district court erred (made a mistake) and abused its discretion when it failed to address/acknowledge/rule on distinct/key legal arguments invoked, presented, and argued by me that would overcome and/or prevent (estop) Respondent's affirmative statute of limitations defense.

E) The district court erred (made a mistake) and abused its discretion when it failed to grant my timely and procedurally correct Rule 59(e) motion pointing out its manifest errors of fact and/or law and manifest injustice in ruling my habeas petition was time-barred, when in fact it was timely filed.

F) the district court erred (made a mistake) and abused its discretion when it failed to acknowledge Respondent's interference (state action) with my appeal, and the district courts' failure to issue a COA, as the but-for-cause reasons necessitating my Rule 60(b).

G) District court erred and abused its discretion in placing an impermissibly higher burden on me than Kemp or Rule 60(b)(1) require.

Erroneously, the district court denied my Rule 60(b)(1) motion on October 31, 2024, therefore, I filed a timely notice of appeal with the district court (ECF No. 44) and the FCCOA docketed my appeal on December 02, 2024. (see ECF No. 43).

Subsequently, I timely filed my motion for COA, IFP, and brief in support on February 14, 2025. The FCCOA denied my motion on June 20, 2025. Consequently, I filed a timely Petition for Panel Rehearing on July, 11, 2025, and the FCCOA denied the petition on August 01, 2025. (COA, IFP, BIS herein after FCCOA Nos.).

Therefore, I now petition the Court for writ of certiorari to the FCCOA for the reasons stated herein. I contend the following error(s) (mistake(s)) and abuses of discretion in the district court's and FCCOA's judgments:

i) In its June 20, 2025 judgment, the FCCOA states: "In his COA motion, Baker argues that the district court did not apply the correct Rule 60(b)(1) standards"... and "He also contends that he was entitled to Rule 60(b)(1) relief because, during his § 2254 proceedings, the district court (i) failed to determine the date on which the limitations period began to run for purposes of 28 U.S.C. § 2244(d)(1)(D)". (Order at pg. *1 - *2) (in pertinent part).

As clearly argued in both the district court and the FCCOA, the district court made a mistake (erred) and abused its discretion when it failed to follow the law as mandated by 28 U.S.C. §2244 (d) and Supreme Court law. The plain languge of the statute requires that a specific date (trigger date) be determined/established in order to correctly calculate the one year limitation period under 28 U.S.C. §2244 (d)(1)(A)-(D). See Jimenez v. Quarterman, 555 U.S. 113, 114, 129 S. Ct. 681, 172 L.Ed. 2d 475 (2009) (The Antiterroism and Effective Death Penalty Act of 1996 (AEDPA) establishes a 1-year time limitation for a state prisoner to file a federal habeas corpus petition. That year runs from the latest of four specified dates. 28 U.S.C. §2244 (d)(1).) (emphasis added). (see ECF No. 42).

The district court failed to perform this non-discretionary duty. the Court has repeatedly confirmed this mandatory statutory requirement. See McQuiggin v. Perkins, 596 U.S. 383, 388-389, 133 S. Ct. 1924, 185 L. Ed. 2d 1019 (2013); Gonzalez v. Thaler, 565 U.S. 134, 148-149, 132 S. Ct. 641, 181 L.Ed. 2d 619 (2012); Wall v. Kholi, 562 U.S. 545, 550, 131 S. Ct. 1278, 179 L.Ed. 2d 252 (2011).

moreover, every United States Court of Appeals - including the Fifth Circuit - has confirmed that the limitations period runs from the latest of four different events (specified dates) in the statute. 28 U.S.C. §2244(d)(1)(A)-(D). See Wood v. Spencer, 487 F.3d 1, 4 (1st Cir. 2007); McCants v. Alves, 67 F.4th 47, 51 (1st Cir. 2023); Jimenez v. Stanford, 96 F.4th 164, 184 n.23 (2d Cir. 2024); Casey v. Lilley, 62 F.4th 74, 81 (2d Cir. 2023); Miller v. New Jersey Dept. of Corrections, 145 F.3d 616, 617 (3d Cir. 1998); Slutzker v. Johnson, 393 F.3d 373, 381 (3d Cir. 2004); Bracy v. Superintendent Rockview SCI, 986 F.3d 274, 287 (3d Cir. 2021); Gray v. Ballard, 848 F.3d 318, 322 (4th Cir. 2017); Harris v. Hutchinson, 209 F.3d 325, 327 (4th Cir. 2000); Shank v. Vannoy, 2017 U.S. App. LEXIS 25179, at *2 (5th Cir. 2017); Flannagan v. Johnson, 154 F.3d 196, 198 (5th Cir. 1998); DiCenzi v. Rose, 452 F.3d 465, 468 (6th Cir. 2006); Ayers v. Ohio Dep't. of Rehab, 113 F.4th 665, 670 (6th Cir. 2024); Williams v. Sims, 390 F.3d 958, 960 (7th Cir. 2004); Martin v Bartow, 628 F.3d 871, 873 (7th Cir. 2010); Jimerson v Payne, 957 F.3d 916, 924 (8th Cir. 2020); Mathena v. United States, 577 F.3d 943, 945 (8th Cir. 2009); Melville v. Shinn, 68 F.4th 1154, 1156 (9th Cir. 2023); Whalem/Hunt v. Early, 233 F.3d 1146, 1147 (9th Cir. 2000); Burger v. Scott, 317 F.3d 1133, 1138 (10th Cir. 2003); Fleming v. Evans, 481 F.3d 1249, 1254 (10th Cir. 2007); Westmoreland v. Warden, 817 F.3d 751, 753 (11th Cir. 2006); United States v. Allen, 2016 U.S. Dist. LEXIS 100863, at *3 (D.C. Dist. Ct. 2016).

As argued in my Rule 60(b)(1) motion, I not only alleged interference by the State (Respondent) under §2244(d)(1)(B), I also alleged two (2) newly discovered factual predicates under §2244(d)(1)(D) (see ECF No. 42, at 1-45).

The district court erred and abused its discretion when it failed to establish/determine the dates (trigger dates) for these two subsections as claimed by me, and required by the statute enacted by Congress (28 U.S.C. §2244(d)(1)(B) and (D)).

I argued 28 U.S.C. §2244(d)(1) clearly states, "a 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a state court. The limitations period shall run from the latest of -". (see ECF No. 42, at pg. 6-11).

Under the plain language of the statute enacted by Congress, and the Court's prior decisions, the law requires a specific date be established/determined in order to correctly calculate the one-~~year~~ (year) limitations period. See Jimenez, Id. at 114.

The district court's failure to perform this non-discretionary duty is an error of law and, therefore, an abuse of discretion as defined by the Court in Cooter, id. at 405; and Koon, id. at 100.

Other Courts of Appeals, including the Fifth Circuit, have confirmed that failure to perform this non-discretionary duty is an abuse of discretion. See Wilson v. Beard, 426 F.3d 653, 660 (3d Cir. 2005); Hill v. Braxton, 277 F.3d 701 (4th Cir. 2002); Owens v. Boyd, 235 F.3d 356 (7th Cir. 2000); Hasan v. Galaza, 254 F.3d 1150 (9th Cir. 2001); Bracy v. Superintendent Rockview SCI, 986 F.3d. 274 (3d Cir. 2021); Fisher v. Johnson, 174 F.3d 710, 711 n.2 (5th Cir. 1999); Starns v. Andrews, 524 F.3d 612, 620-621 (5th Cir. 2008)

moreover, it was error and an abuse of discretion for the FCCOA to fail correcting the district court's error and sanctioning its clearly erroneous judgment. See Fox v. Vice, 563 U.S. 826, 838-839, 131 S.Ct. 2205, 180 L.Ed.2d 45 (2011) (But the trial court must apply the correct standard, and the appeals court must make sure that has occured) and (A trial court has wide discretion when, but only when, it calls the game by the right rules.).

Compounding that error, the FCCOA further abused its discretion (erred) when it failed to grant me a certificate of appealability (COA), and IFP status, in order to appeal the district court's erroneous October 31, 2024 judgment declining to reopen its December 18, 2023 judgment due to error(s) (mistake(s)) as defined by the Court in Kemp id., and correctly argued by me in my Rule 60(b)(1) motion. As correctly argued in my Rule 60(b)(1) motion, and subsequent filings in the FCCOA (ECF No. 42 and motion for COA, IFP, and brief in support), the district court was <u>not correct</u> in dismissing my petition as time-barred and erred, and abused its discretion, when it failed to: issue a COA and grant me IFP status; grant my timely and procedurally proper Rule 59(e) motion; grant my timely and procedurally proper Rule 60(b)(1) motion. <u>All</u> of my pleadings have been <u>timely</u> filed, <u>procedurally proper</u>, and meritorious (or at a minimum <u>debatable</u>)(FCCOA Nos. 20-22).

In <u>Miller-El v. Cockrell</u>, 537 U.S. 322, 337, 123 S.Ct. 1029, 154 L.Ed.2d 931 (2003) the Court stated in pertinent part, (our opinion in <u>Slack</u> held that a COA does not require a showing that the appeal will succeed), and at 348 (The COA inquiry asks <u>only</u> if the District Court decision was <u>debatable</u>)(emphasis added).

In <u>Slack v. McDaniel</u>, 529 U.S. 473, 484, 120 S.Ct. 1595, 146 L.Ed.2d 542 (2000) the Court stated, (Where a plain procedural bar is present and the district court is <u>correct</u> to invoke it to dispose of the case, a reasonable jurists could not conclude either that the district court erred in dismissing the petition or that the petitioner should be allowed to proceed further. In such a circumstance, no appeal would be warranted.)(emphasis added).

I correctly claimed in my Rule 60(b)(1) motion, that the district court was **<u>not correct</u>**, erred (made a mistake) and, therefore, abused its discretion in its December 18, 2023 and January 26, 2024 judgments (ECF Nos. 31, 32, 34, 42). In its October 31, 2024 judgment, the district court further compounded its error(s) (mistake(s)) when it cites the correct controlling law (<u>Kemp v. United States</u>, Id.) – but then proceeds to <u>incorrectly</u> <u>apply</u> the Rule 60(b)(1) standard by placing an <u>impermissibly higher burden on me than Rule 60(b)(1) demands</u>. (see ECF No. 42, and (and) FCCOA Nos. 20-22).

As clearly argued in my motion for COA, IFP, and brief in support in the FCCOA, the district courts' October 31, 2024 Rule 60(b)(1) standard analysis erroneously stated that: "a movant must make 'a sufficient showing of <u>unusual</u> or <u>unique</u> circumstances justifying such relief'"; "Relief under Rule 60(b)(1) is therefore <u>reserved</u> for cases where 'a <u>fundamental</u> misconception of the law' has occured"; "Petitioner fails to identify a '<u>fundamental</u> misconception of the law'; "finding a 'mistake' under Rule 60(b)(1) '<u>must</u> involve a <u>fundamental</u> misconception of the law', and <u>not simply an erroneous ruling</u>"; and "plaintiffs claims of <u>mere legal error</u> would <u>not</u> merit relief under Rule 60(b)(1)".

Therefore, the district court made a mistake (erred) and abused its discretion when it used an impermissibly higher burden, under Rule 60(b)(1), in direct conflict with the Court's decision in Kemp, id., wherein the Court explicitly rejected any attempt to add a "gloss" to the word "mistake". Kemp, id. at 535-536 (see ECF No. 42, at See also, Ayestas v. Davis, 584 U.S. 28, 48, 138 S. Ct. 1080, 200 L. Ed. 2d 376 (2018) (We conclude that the Fifth Circuit's interpretation... is not a permissible reading of the statute) (in pertinent part); Buck v. Davis, 580 U.S. 100, 116-117, 137 S. Ct. 759, 197 L. Ed. 2d 1 (2017).

Moreover, the FCCOA erred and abused its discretion when it failed to correct the district court's impermissible higher burden, endorsed the district court's decision, and stated that I had not shown that jurists of reason could debate the district court's October 31, 2024 judgment. See Fox v. Vice, id., at 838-839. (See FCCOA Nos. 20-22; June 20, 2025 Order).

In other words, the FCCOA has decided an important federal question in a way that conflicts with relevant decisions of the Court, and other Courts of appeals, and sanctioned a decision by the district court as to call for an exercise of the Court's supervisory power in order to correct the FCCOA's abuse of discretion. Mohasco Corp. v. Silver, 447 U.S. 807, 826, 100 S. Ct. 2486, 65 L. Ed. 2d 532 (1980); Bank of Nova Scotia v. United States, 487 U.S. 250, 254-255, 101 Ed. 2d 228, 108 S. Ct. 2369 (1988).

2) In its June 20, 2025 judgment, the FCCOA states: "He also contends that he was entitled to Rule 60(b)(1) relief because during his § 2254 proceedings, the district court ... (ii) impermissibly shifted the burden of proving and establishing the statute of limitations to him"). (Order at pg. *1 - *2).

As clearly argued in my Rule 60(b)(1) motion, and subsequent pleadings in the FCCOA, the district court erred (made a mistake) and abused its discretion in failing to hold Respondent (party) to its initial burden of pleading and proving its affirmative statute of limitations defense. (see ECF No. 42; Celotex Corp. v. Catrett, 477 U.S. 317, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986).

I not only alleged - but showed the district court that I discovered the first factual predicate (altered/edited audio recording of volume 2 of 11) on November 23, 2021 by providing proof via exhibits in my "Reply" (ECF No. 30, Exhibits A, H, L, O, Q, R) to the Respondent's/State's response. Respondent failed to meet its initial burden of proof when it erroneously stated (misrepresented) to the district court - without any proof whatsoever - that I discovered this factual predicate on November 13, 2021 (see Respondent's/State's answer ECF No. 7, pg. 12)

Despite my showing/proof, and Respondent's/State's misrepresentation, the district court never determined the date as required under 28 U.S.C. § 2244(d)(1)(D) or required Respondent to meet its initial burden.

Moreover, I also alleged, and showed the district court that I discovered the second factual predicate (deleted/destroyed audio recordings of volumes 6, 7, 8, 9) on May 12, 2023 by providing the district court with a copy of the Fourth Court of Appeals (direct appeals court) case event log reciting the clerk's conversation with court reporter/recorder Lori Schmid - stating she had deleted/destroyed volumes 6, 7, 8, 9 (ECF No. 30, Exhibit F).

More importantly, I showed the district court how the Fourth Court of Appeals failed to notify me or my attorney (Chris Iles) of this material and dispositive fact (ECF No. 30, pgs. 26-49); and (Exhibit F, L, O, Q, R). Despite this showing of proof, coupled with the Respondent's admissions, the district court never determined the date for these factual predicates under 28 U.S.C. §2244(d)(1)(B) and (D). (see ECF No. 42, at 26-57; FCCOA Nos. 20-21).

Therefore, the district court's decision that, "reasonable jurists could not debate the denial of the Petitioner's motion on substantive or procedural grounds, nor find that the issues presented are adequate to deserve encouragement to proceed", is against the weight of the evidence in the record and pleadings - including Respondent's admissions - and, therefore, a mistake (error) and abuse of discretion (ECF No. 43, at pg. 3, emphasis added).

3) In its June 20, 2025 judgment, the FCCOA states: "He also contends that he was entitled to Rule 60(b)(1) relief because, during his §2254 proceedings, the district court...(iii) mishandled his discovery requests and ignored facts that he alleges the Respondent admitted by failing to respond to his discovery requests." (Order at *1-*2).

In my Rule 60(b)(1) motion and subsequent pleadings in the FCCOA, I claimed the district court erred and abused its discretion when it failed to follow the Fed.R.Civ.P. and the Rules Gov. Sec. 2254 Cases in the District Courts - Rule 6 after ordering me to conduct discovery on June 07, 2023 (see ECF No. 42, at pgs. 1, 14-20, 23-25; FCCOA Nos. 20-22); Fed.R.Civ.P. 81(a)(4); ECF No. 20.

After seeking the help of the district court in obtaining the omitted/missing records, exhibits, and information from Respondent (party) (see ECF Nos. 12, 19 at pgs. 1-11), the district court ordered me to conduct discovery (ECF No. 20). Consequently, I properly served the trial court, Respondent (party), and the district court with a Motion for Discovery/Disclosure which included - as required by the Rules Gov. Sec. 2254 Cases - Rule 6 - twenty-seven (27) requests for admission (see ECF Nos. 22, 23 (14 pages)).

As clearly stated in my motion for discovery, and subsequent pleadings in the district court and FCCOA, this was done in accordance with the district court's June 07, 2023 order, the Fed. R. Civ. P., and the Rules Gov. Sec. 2254 Cases - Rule 6 (see ECF No. 20). After the expiration of the time allotted for Respondent to answer, I filed a procedurally proper motion to Compel with the district court (see ECF No. 25). The district court proceeded to erroneously construe (misconstrue) my motion to compel as a motion for discovery - and denied it on August 10, 2023 (see ECF No. 26).

As adamantly argued in my objection (ECF No. 30, pgs. 122-130), the district court haddready (already) ordered me to conduct discovery on June 07, 2023, therefore, the only legal means of accomplishing the district court's order was through the Fed. R. Civ. P. and the Rules Gov. Sec. 2254 Cases - Rule 6. As correctly argued, the trial court was not a party to the litigation, hence, I correctly served Respondent (party) as well as the district court (ECF Nos. 22, 23); Fed. R. Civ. P. 81(a)(4).

Thereafter, when the party (Respondent) failed to answer, object, or file for a protective order within the time prescribed by Fed. R. Civ. P. 36(a)(3), the admissions were deemed to be admitted by default as a matter of law. Correctly citing Fifth Circuit precedent, AAA v. AAA Legal Clinic of Jefferson Crooke, P.C., 930 F.2d 1117 (5th Cir. 1991), I argued it was a mistake (error) and abuse of discretion for the district court to sua sponte ignore the admissions legally obtained after being ordered by the district court to conduct discovery, and further argued it was also a mistake (error) and abuse of discretion to sua sponte assume a defensive posture for the other party (Respondent) whom failed to answer, object, file for a protective order, or motion for withdrawl in opposition to my properly served discovery requests and requests for admissions (see ECF No. 42, at pg. 5-6, 14-20).

Moreover, I further argued it was error for the district court to order discovery then unfairly mischaracterize my good faith efforts to follow its order as a "fishing expedition" when I had properly served the district court at the same time as the party (Respondent), yet the district court never took any action to prevent or limit the discovery it ordered (ECF No. 42); (FCCOA Nos. 20-22). See Wood v. Milyard, 566 U.S. 463, 472, 132 S.Ct. 1826, 182 L.Ed.2d 733 (2012); Greenlaw v. United States, 554 U.S. 237, 243-244, 128 S.Ct. 2559, 171 L.Ed.2d 399 (2008); Neal v. Vannoy, 78 F.4th 775, and n.2 (5th Cir. 2023).

4) In its June 20, 2025 judgment, the FCCOA states: "Additionally, Baker does not adequately brief his Rule 60(b)(1) contention that the district court failed to consider his arguments regarding equitable estoppel, judicial estoppel, and estoppel by silence. He therefore has abandoned this issue. See Hughs v. Johnson, 191 F.3d 607, 613 (5th Cir. 1953)." (Order at pg. *2) (emphasis added).

In my Rule 60(b)(1) motion, I further contended that it was a mistake (error) and abuse of discretion when the district court failed to acknowledge/rule on my distinct/key legal arguments invoked, presented, and argued in my "Reply" to Respondents' affirmative statute of limitations defense (see ECF No. 30, at pgs. 58-89, and ECF No. 42, at pgs. 2, 20-25); also (FCCOA Nos. 20-22); Fed. R. Civ. P. 81(a)(4)).

The FCCOA has explicitly ruled that "[t]he failure to address a key legal argument is an appropriate basis for a Rule 59(e) motion"(28). See Garziano v. La. Log Home Co., 569 Fed. Appx. 292, 300 and n.28 (5th Cir. 2014) (citing Smith v. Alumax Extrusions, Inc., 868 F.2d 1469, 1472 (5th Cir. 1989) (remanding a case on the basis of a Rule 59(e) motion for the purposes of allowing the district court to rule on contentions it had previously failed to address) (Garziano is unpublished) (per curiam).

The Court, and other Court of Appeals' have also, ruled that district courts are obligated to consider nonfrivolous arguments presented by the parties. See Concepcion v. United States, 597 U.S. 481, 487, 142 S.Ct. 2389, 213 L.Ed.2d 731 (2022) (Because district courts are always obligated to consider nonfrivolous arguments presented by the parties) (in pertinent part, emphasis added); Wilson v. Sellers, 584 U.S. 122, 134, 138 S.Ct. 1188, 200 L.Ed.2d 530 (2018) (J. Gorsich, with whom J. Thomas and J. Alito join dissenting) (...a federal habeas court should look at all the arguments presented in State and federal court and examine the state court record) (in pertinent part, emphasis added); also, Blitch v. United States, 39 F.4th 827, 834 (7th Cir. 2022) (Blitch's motion alleges that the court overlooked a material argument... This boils down to an argument that the court made a mistake... Because Rule 60(b)(1) covers all mistakes of law made by a judge, Kemp v. United States, 142 S.Ct. 1856, 1862..(2022), Blitch should have invoked Rule 60(b)(1), not (b)(6).) (in pertinent part, quotation marks omitted, emphasis added); and Pirs Capital, LLC v. Williams, 54 F.4th 1050, 1055 (8th Cir. 2022) (Pirs claim of exceptional circumstances is that... deprived it of a full and fair opportunity to present (present) meritorious defenses. That could have been the basis for a claim under Rule 60(b)(1)) (in pertinent part, quotation marks omitted, emphasis added).

Moreover, as adamantly argued in my pleadings to the FCCOA, it was error and abuse of discretion for the FCCOA to rule that I had inadequately briefed and, therefore, abandoned an argument that was neither appropriate, nor required, in a Rule 60(b)(1) motion (see FCCOA No. 38 - Petition for Panel Rehearing).

As properly argued, I made the correct legal argument (failure to address a key legal argument is an appropriate basis for a Rule 59(e) motion because it is a mistake (error) of fact and/or law and an abuse of discretion), at the appropriate time in the proceedings (see ECF Nos. 33, 42; 30 pgs. 58-89). Had I re-argued/rehashed the estoppel arguments themselves, the FCCOA would have certainly ruled that I had failed to correctly argue the issue under Rule 60(b)(1); error of fact or law.

Pointing to controlling Fifth Circuit law, I argued the district court made a mistake (erred) when it failed to rule on my distinct/key legal arguments of equitable estoppel, judicial estoppel, and estoppel by silence - among other arguments - that would prevent (estop) and/or overcome Respondent's affirmative statute of limitations defense (see ECF No. 30, at pgs. 58-89).

The Court has ruled that - "a statute of limitations is subject to waiver, estoppel, and equitable tolling". Zipes v. TWA, 455

U.S. 385, 393, 102 S. Ct. 1127, 71 L.Ed. 2d 234 (1982) (in pertinent part, comma omitted, emphasis added). See also Maples v. Thomas, 565 U.S. 266, 132 S. Ct. 912, 181 L.Ed. 2d 807 (2012) and Holland v. Florida, 560 U.S. 631, 130 S. Ct. 2549, 177 L.Ed. 2d 130 (2010) (referencing 3L. Ed. 2d 1886 for the proposition that equitable estoppel precludes reliance on statute of limitations, and cases cited therein); and United States v. Locke, 471 U.S. 84, 94 and n.10, 105 S. Ct. 1785, 85 L. Ed. 2d 64 (1985) (Citing Zipes, Id, at 392-398 (1982)); (see ECF No. 30, at pgs. 58-89).

Furthermore, the FCCOA itself (itself) has ruled - "...the limitation statute is subject to estoppel and equitable tolling". Davis v. Johnson, 158 F.3d 806, 811, (quoting Conaway v. Data Corp., 955 F.2d 358, 361-62 (5th Cir. 1992) (citing Zipes, 455 U.S. at 393)), (5th Cir. 1998).

Therefore, the FCCOA erred and abused its discretion in ruling that I failed to show that reasonable jurists could debate whether the district court abused its discretion in denying my Rule 60(b)(1) motion due to mistake, because the FCCOA itself has ruled that a failure to address a key legal argument is an appropriate basis for a Rule 59(e) motion and that the limitation statute is subject to estoppel and equitable tolling. Id. Smith v. Alumax, Garziano v. La. Log Home, and Davis v. Johnson. (see ECF No. 42 and FCCOA Nos. 20-22).

5) In its June 20, 2025, judgment, the FCCOA overlooked, and completely fails to acknowledge, my argument that the district court's failure to grant my timely and procedurally correct Rule 59(e) motion was a mistake (error), abuse of discretion, and manifest injustice warranting relief under Rule 60(b)(1). (See ECF No. 42 and FCCOA Nos. 20-22).

As clearly argued in my Rule 59(e) and Rule 60(b)(1) motions - and subsequent pleadings in the FCCOA - the district court made a mistake (erred) and abused its discretion when it failed to grant my timely and procedurally correct Rule 59(e) motion pointing out its manifest errors of fact and law in its December 18, 2023 judgment - and the resulting manifest injustice in dissmissing my habeas petition as time-barred when in fact it was timely filed. (see ECF No. 33, at pgs. 5-9, 12, 15-16, 19-20; ECF No. 42, at pgs. 17-20; Motion for COA, IFP, and brief in support, at pgs. 9, 21, 35-36, 43-44 of 50; Motion for Panel Rehearing, at pgs. 3, 8-10); (ECF No. 42, at pgs. 17-20 of 29).

Once again, not only was my Rule 59(e) motion timely and procedurally proper, it should have been granted.

Inexplicably, the FCCOA completely overlooked my arguments that my extraordinary circumstances warranted equitable tolling and/or equitable estoppel, and that failure to address my distinct/key legal arguments was an appropriate basis for my timely Rule 59(e) motion.

Having appropriately cited Supreme Court and Fifth Circuit case law supporting my arguments, the FCCOA completely overlooks cases that could not have been more on point with my contention, (see Smith v. Alumax Extrusions, Inc., 868 F.2d 1469 (5th Cir. 1989) and Garziano v. La. Log Home Co., 569 Fed. Appx. 292, 300 and n. 28 (5th Cir. 2014), citing Smith, at 1472 (5th Cir. 1989)), that the failure to address a key legal argument is an appropriate basis for a Rule 59(e) motion. (see ECF No. 42).

Moreover, not only did the FCCOA err and abuse its discretion in failing to follow its own precedent and apply it to my case as claimed, (See Gochicoa v. Johnson, 238 F.3d. 278, 286 n. 11 (5th Cir. 2000) (When confronting decisions of prior panels, however, we are bound by "not only the result but also those portions of the opinion necessary to that result...." Seminole Tribe v. Florida, 517 U.S. 44, 67, 134 L.Ed. 2d 252, 116 S.Ct. 1114 (1996) (quoted in part)), its ruling that "Baker otherwise has not shown that reasonable jurists could debate whether the district court abused its discretion in denying his Rule 60(b) motion" (Order at pg. *2 - emphasis added), is in direct conflict with the Court's - and its own Fifth Circuit - decisions. See Miller-El v. Cockrell, 537 U.S. 322, 326 (2003) and Slack v. McDaniel, 529 U.S. 473, 483-484 (2000).

Furthermore, other Circuit Courts of Appeals have confirmed the arguments I properly presented and the FCCOA overlooked. See

Commonwealth Prop. Advocates, LLC. v. Mortgage Elec. Reg. Sys., Inc., 680 F.3d 1194, 1198 (10th Cir. 2011) (Plaintiff then filed a motion to reconsider pursuant to Rules 59 and 60 because the district court appears to have overlooked the applicable statute and the facts as admitted herein) and at 1200 (the motion appears to be properly characterized as a Rule 59(e) motion, because Plaintiff claimed the district court overlooked the applicable statute and the facts.) (quotation marks omitted, emphasis added); also Blitch v. United States, 39 F.4th 827, 834 (7th Cir. 2022); and United States v. Roberts, 978 F.2d 17, 21 (1st Cir. 1992).

Therefore, not only did the district court make a mistake (err) and abuse its discretion when it failed to render a just decision on the basis of all the facts and grant my timely and procedurally proper Rule 59(e) motion, the FCCOA compounded this mistake (error) when it abused its discretion in overlooking a nonfrivolous (meritorious) argument and then ruling that I failed to show that jurists of reason could debate (debate) the district courts October 31, 2024 ruling (ECF Nos: 33, 42 and FCCOA Nos. 20-22); (ECF No. 20).

The resulting manifest injustice has denied me my "one fair opportunity to seek federal habeas relief". See Banister v. Davis, 590 U.S. 504, at 507 (2020); Rosales-Mireles v. United States, 585 U.S. 129, 141, 138 S.Ct. 1897, 201 L.Ed.2d 376 (2018); Wallace v. Miss, 43 F.4th 482, 501 (5th Cir. 2022).

6) <u>In its June 20, 2025</u> <u>judgment</u>, <u>the FCCOA states</u>: "this court will not consider Baker's argument <u>for the first time in his COA motion</u> that Rule 60(b)(1) relief was warranted because the district court failed to determine the date on which the limitations period began to run for purposes of tolling under §2244(d)(1)(B)". (order at pg. *2)(em.ad.).

<u>(STATE INTERFERENCE)</u>

First, not only does the FCCOA completely <u>overlook/ignore</u> the fact that I argued 28 U.S.C. §2244(d)(1)(B) in <u>all</u> of my pleadings in <u>both the district court and FCCOA</u>, <u>it completely overlooks/ignores the fact that the district court passed upon the argument - although (although) inadequately and erroneously - in its December 18, 2023 judgment dismissing my petition as time barred</u>. (see my pleadings, ECF No. 30, at pgs. 26-49 (21-49), 50-58, 59-89, 90-94, 107; ECF No. 33, pgs. 1-18; motion for COA, IFP, Brief in Support pgs. 8, 9, 11-17, 20-25, 27-34, 45-47; ECF No. 42, pgs. 4-20; Panel Rehearing Motion, pgs. 4, 7; ECF No. 31, at 3 and 7; FCCOA Nos. 20-22.).

Correctly citing the Court's decision in <u>United States v. Williams</u>, 504 U.S. 36, 41, 112 S. Ct. 1735, 118 L.Ed.2d 352 (1992), and the district court's Judgment (2023 U.S. Dist. LEXIS 226016 at pg. *9-*10), I showed the FCCOA that the district court had passed upon my 28 U.S.C. §2244(d)(1)(B) argument, therefore, the FCCOA ered and abused its discretion when it stated - erroneously - I had raised my 28 U.S.C. §2244 (d)(1)(B) argument for the first time in my COA motion. (see ECF Nos. 33, 42 and FCCOA Nos. 20-22).

Both of my newly discovered factual predicates (altered/edited audio recording of volume 2 of 11, and deleted/destroyed audio recordings of volumes 6, 7, 8, 9) under 28 U.S.C. §2244 (d)(1)(D) involve state actors (action) in violation of the constitution or federal law, therefore, are directly related to the claims of state interference under §2244 (d)(1)(B) and in my habeas petition. Under the extraordinary facts of my case, it is not possible to separate 28 U.S.C. §2244 (d)(1)(B) and (D). One is inextricably intertwined with the other.

Simply put, the question of the State's/Respondent's admitted constitutional or federal law violations; the newly discovered factual predicates; and my corresponding estoppel/tolling arguments are inextricably intertwined with the question of whether state action prevented timely filing of my federal petition. See, Williams v. Sims, 390 F.3d 958, 960-961 (7th Cir. 2004); Green v. Cain, 254 F.3d 71, 2001 WL 502 86, at *1 (5th Cir. 2001) (per curiam) (unpublished) (we assume without deciding that the prosecutor's failure to disclose the existence of a laboratory report... was a state-created impediment that delayed the accrual date of the limitations period on Green's Brady claim

... His claim would then not be barred by the statute of limitations. See 28 U.S.C. §2244 (d)(1)(B), (D), §2244(d)(2).). (see ECF No. 30, at pgs. 71-89); also Critchley v. Thaler, 586 F.3d 318 (5^{th} Cir. 2009).

Furthermore, the district court erred when it failed to consider relevant record evidence presented and obtained (admissions), and failed to perform the necessary highly fact-intensive inquiry required under 28 U.S.C. §2244 (d)(1) (B) and (D); See Pullman-Standard v. Swint, 456 U.S. 273, 102 S. Ct. 1781, 72 L.Ed.2d 66 (1982); Inwood Labs v. Ives Labs., 456 U.S. 844, 855-857 n.19, 102 S. Ct. 2182, 72 L.Ed 2d 606 (1982); Holland v. Florida, 560 U.S. 631, 654, 130 S. Ct. 2549, 177 L.Ed. 2d 130 (2010); Palacios v. Stephens, 723 F.3d 600, 604-605 (5^{th} Cir. 2013); Martin v. Fayram, 849 F.3d 691, 698 (8^{th} Cir. 2017), and the FCCOA abuse of discretion in sanctioning the district court's mistakes (errors), warrants relief.

STATE INTERFERENCE WITH MY APPEAL

7) In its June 20, 2025 judgment, the FCCOA states: "In his COA motion, Baker argues that the district court ... impermissibly (improperly) determined that his arguments could have been presented in his appeal from the dismissal of his §2254 application." (in pertinent part, emphasis added, correction made, Order at pg. #1).

My appeal was due in the FCCOA on May 22, 2024, but I was prevented from filing my appeal due solely to Respondent/state interference.

On April 19, 2024, Respondent (TDCJ)/State confiscated all of my property - including all of my legal materials and tablet (used for research on LEXIS NEXUS because of the extremely outdated legal material at the Allred Unit Law Library) - and did not return my property until July 30, 2024, thereby, causing me to file for a motion for a stay of my appeal with the FCCOA on May 12, 2024 (see ECF No. 42 pgs. 26-44); (FCCOA Nos. 25, 26).

Inexplicably, the FCCOA denied my timely and procedurally proper motion for a stay of my appeal on May 31, 2024. As clearly and thoroughly presented to both the FCCOA and the district court, I had in no way, shape, form, or fashion voluntarily /willingly abandoned my appeal. I explained, in great detail, how Respondent (TDCJ)/State had sent me ten (10) hours away - to the Ellis Unit - for a thirty (30) minute eye exam that could have been performed at the Allred Unit; and how I had correctly filed the only feasable motion (stay) under the circumstances due to the fact I had no idea when - or if - I would regain my property in order to meet the May 22, 2024 deadline for my appeal. (see ECF No. 42, at pgs. 26-44).

Moreover, I backed up my claim of interference by Respondent /TDCJ/State with competent evidence (STEP 1 and STEP 2

Grievances and an affidavit of Facts sworn under the penalty of perjury - 28 U.S.C. § 1746) (see ECF No. 42 and FCCOA Nos. 20-22) that was obviously overlooked/ignored by both the district court and the FCCOA. Unconscionable.

As clearly argued, I did everything possible to regain my property/legal materials/tablet in order to meet the May 22, 2024 deadline, and when it was obvious that Respondent (TDCJ)/State was not going to return my property in time, I filed the only motion (stay) in a timely manner in order to preserve my appeal. The FCCOA abused its discretion in denying my my timely and procedurally correct motion for a stay. See Pioneer Inv. Servs. v. Brunswick Assocs. Ltd. P'ship, 507 U.S. 380, 387, 113 S. Ct. 1489, 123 L.Ed.2d 74 (1993) (At one end of the spectrum, a party may be prevented from complying by forces beyond its control, such as an act of God or unforeseeable human intervention.) (emphasis added); Klapprott v. United States, 335 U.S. 601, 69 S.Ct. 384, 93 L.Ed. 266 (1949); and ECF No. 42 and FCCOA Nos. 20-22).

Furthermore, I clearly argued to both the district court and the FCCOA, that it was a mistake (error) and abuse of discretion for the district court to deny me a certificate of appealability (COA) - so that I could appeal - then inconsistently rule, in a later proceeding challenging his discretion, that I used my Rule 60(b)(1) motion for a substitute for an appeal that the district court refused me the opportunity to pursue. See Lozada v. Deeds, 498 U.S. 430, 111 S.Ct. 860, 112 L.Ed.2d 956 (1991) (per curiam), at 432 (we believe the issue of prejudice caused by the alleged denial of the right to appeal could be resolved in a different manner from the one followed by the District Court.); also ECF No. 42)

Therefore, as adamantly argued in my pleadings, I did not voluntarily abandon my appeal and the district court's refusal to grant me a COA so that I could appeal - coupled with the Respondent's (TDCJ's) / state interference with my appeal - are the but-for-cause (only) reason I missed the May 22, 2024 deadline and, therefore, was forced to file my Rule 60(b)(1) motion in order to reopen the district court's erroneous judgment. (see ECF No. 42, FCCOA Nos. 20-22).

As argued herein, the FCCOA has erred and abused its discretion in its June 20, 2025 judgment by:

A) Failing to recognize, and correct, the district court's manifest error(s) of fact and law, and its failure to perform its duty to follow the federal rules and statutes enacted by Congress to ensure I received one fair opportunity to seek federal habeas relief. See Fox v. Vice, Id., at 563 U.S. 826, 839 (2011); Bank of Nova Scotia v. United States, 487 U.S. 250, 255, 108 S. Ct. 2369, 101 L.Ed. 2d 228 (1988) (federal courts have no more discretion to disregard the Rule's mandate than they do to disregard constitutional or statutory provisions.) (in pertinent part, emphasis added); Lonchar v. Thomas, 517 U.S. 314, 116 S. Ct. 1293, 134 L.Ed. 2d 440 (1996); Gonzalez v. Crosby, 545 U.S. 524, 541, 125 S. Ct. 2641, 162 L.Ed. 2d 480 (2005) (when a habeas petition has been dismissed on a clearly defective procedural ground, the State can hardly claim a legitimate interest in the finality of that judgment.) (Dissent by J. STEVENS - in part, emphasis added); and Banister v. Davis, 590 U.S. 504, 507 (2020) (A state prisoner is entitled to one fair opportunity to seek federal habeas relief from his conviction) (emphasis added).

B) Failing to grant a COA in order for me to appeal the district court's erroneous October 31, 2024 judgment because I have shown that the district court's judgment - both procedural and substantive - is not only debatable, but wrong. See Miller-El, 537 U.S. 322 (2003); Slack, 529 U.S. 473 (2000); Barefoot v. Estelle, 463 U.S. 880, 893 and n.4 (1983); 28 U.S.C. § 2253.

The FCCOA decided an important federal question in a way that conflicts with the relevant decisions of the Court, and other Courts of Appeals - including its own - and sanctioned an erroneous district court decision that calls for the supervisory power of the Court.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

STANLEY FOSTER BAKER

Date: October 30, 2025