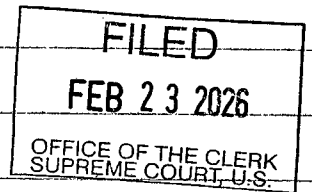


25-7545

ORIGINAL

NO.



IN THE SUPREME COURT OF THE
UNITED STATES

EASTERN DISTRICT OF ARKANSAS
TERRY ANTONIO LEE 120960th PETITIONER

V.S.

DEXTER PAYNE, DIRECTOR RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI
TO

EIGHTH CIRCUIT COURT OF APPEALS
NAME OF COURT THAT LAST RULED ON
MERITS OF CASE

PETITION FOR WRIT OF CERTIORARI

Terry Lee 120960
EAST ARKANSAS REGIONAL
unit
P.O. Box 970
MARIANNA ARK, 72360

QUESTIONS

BY ALLOWING DEFENSE ON SUCCESSIVE HABEAS CORPUS IN SITUATION WHERE THE STATE DOES NOT ESTABLISH AN ADEQUATE PROCEDURAL GROUND STATE RULE WHICH MUST BE ESTABLISHED BY STATE RULE

NOT ESTABLISH SHALL THE DISTRICT COURT BE ABLE TO USE FOR PROCEDURAL BAR ON

CLAIMS (PET 1-9) BY THE DISTRICT COURT

JUDGE FAIL TO RULE ON PETITION STAY OF PROCEEDINGS FOR APPOINTMENT OF COUNSEL

(DKT NO. 54) IS IN VIOLATION OF FED. R. CIV. P. 56 (b)(3)(C)(i) AND 56(e) (PET 6-9)

IS IT ABUSE OF DISCRETION OR CLEAR ERROR

(PET 6-9) SHOULD THE UNITED STATES

COURT OF APPEALS EIGHTH CIRCUIT SHOULD

HAVE REVIEW AS ABUSE OF DISCRETION OR CLEAR ERROR. SHOULD CERTIFICATE OF

APPEALABILITY SHOULD BEING GRANTED

(PET 10-12), SHOULD APPOINTMENT

OF COUNSEL SHOULD BE APPOINTED

(PET 1-12) SHOULD PETITIONER RECEIVE

RELIEF FROM JUDGMENT (PET 1-13)

SHOULD APPOINTMENT OF COUNSEL SHOULD

BEING GRANTED (PET 1-13)

LIST OF PARTIES

A list of all parties to the proceeding in the court whose judgment is the subject of this petition is provided below. If a party is a corporation with a stock ticker symbol, that symbol is also included.

Terry Antonio Lee

petitioner

Dexter PAYNE Director

Defendant

RELATED CASES

TABLE OF CONTENTS

QUESTION

LIST OF PARTY

OPINION BELOW

JURISDICTION

TABLE OF AUTHORITY

CONSTITUTIONAL AND STATUTORY

PROVISION INVOLVED

STATEMENT OF THE CASE

REASON FOR GRANTING THE WRIT

CONCLUSION

INDEX TO APPENDICES

APPENDIX (A) ORDER (DIET NO. 64)

APPENDIX (B) ORDER (DIET NO. 73)

APPENDIX (C) ORDER (DIET NO. 79)

APPENDIX (D) APPEAL ORDER SEPT 10, 2025

APPENDIX (E) APPEAL JUDGMENT OCT, 17, 2025

APPENDIX (F) APPEAL MANDATE DEC. 2, 2025

Table of Authority

MARTINEZ V. RYAN U.S. 1, 132 S.Ct 1309
2012)

TREVINO V. THALER, 133 S.Ct 1911 (28
MAY 2013)

DANSBY V. MORRIS 682 F.3d 711 (8TH
CIR 2012)

COLEMAN V. THOMPSON 501 U.S. 722
(1991)

566 U.S. at — 132 S.Ct. at 1315

132 S.Ct. at 1320 28 MAY 2013,

DANSBY V. MORRIS 2013 WL 506561 U.S.

HALBERT V. MICHIGAN 545, U.S. 605, 617
(2005) at 1312, 1317

GRAT V. PEARSON Fed. APPX — 2013
WL 245 1083 (C.A. 4 V9

WALKER V. MARTIN 562 U.S. 307, 316
(2011)

NETHERLAND, 93 F.3d 1214, 1241, 4TH
CIR

JESSIE GOINS V. STATE OF ARKANSAS

NO. CR-972 OCTOBER 9, 2003,

TIMOTHY LAMONT HOWARD V. STATE
OF ARKANSAS APRIL 26, 2012 ARK. 177

463 S.W. 3d 38

CLEMONS V. KELLEY JULY 31, 2015 WT

T.O.A. pg 1

reported in F. Supp 3d 2015 WL 46103
55

STAN FORD v. NAT'L GRANGE INC. Co. 64
Supp. 3d 649 E.D. PA. 2014

ABUKHAIR v. LIBERTY MUTUAL ENN.
Co. 499 F. App'x, 129, 130 (3d Cir 2012)
MARCON DELO v. BOARD WALK REGENCY
47 F. 3d 88, 90 3d Cir 1995)

U.S. v. MACK 403, F. 3d 997 (8th Cir 2005)
KEEN v. TXO PRODUCTION CORP. 738 F.
2d 968 (5th Cir 1984)

IN PENNINGTON v. STATE, 305 Ark. 312,
315, 807 S.W. 2d 660, 662 (1991)

TERRY ANTONIO LEE v. DEXTER PAYNE DIRECT
OR CASE NO. 4:24-CV-00418

TERRY ANTONIO LEE v. SARAH HUCKABEE
SANDERS ET AL CASE NO. 4:24-CV-00418
-K6B (Dist No. 80)

TERRY ANTONIO LEE v. DEXTER PAYNE
DIRECTOR CASE NO. 5:18-CV-00045-K6B

BARE FOOT v. ESTELLE, 463 U.S. 880, 893
(1983)

ELASER v. DELO 16, F. 3d 878, 883,
(8th Cir 1994)

MILLER-EL v. COCK WOLL 577 U.S. 322
338 (2003)

T.O. A PS 2

FLEMING v. EVANS 481, F. 3d 1249,
1259 (10th Cir 2007)

WEAVER v. MASSACHUSETTS 137 S. Ct
(1899) 582 U.S. 198 - L. Ed 2d 2017

STOW v. MURPHY 389, F. 3d 880,
885, 88 (9th Cir 2004)

BYRD v. MENDERSOHN 110 F. 3d 34, 36-37
D.C. Cir (1997)

SALIH v. DIXON 788 F. SUPP. 232
(D.D.C. 1992)

MARRIS v. CURT CORP APN ~~15~~ D.C.

Docket No. 300-cv-01297 HWM mer
No. 10-15516 (11th Cir Jul 11 2011)

GONZALEZ v. CROSBY, 545 U.S. 524,
538, 2025

RODWELL v. PEOPLE 324 F. 3d 66, 69-
73 1st Cir 2003

CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED

Rule 60(b)

Rule 37

Fed. R. Civ. P. 56(c)

Fed. R. Civ. P. 56(1)

Fed. R. Civ. P. 56(e)(1)

Fed. R. Appellate procedure 4(A)(e)

28 U.S.C. 2253

1st Amendment

8th Amendment

14th Amendment

28 U.S.C. 2241

D.C. Code 10(g)

60(b)(6)

28 U.S.C. 2261

✓
OPINION Below

District Court orders (Dkt NOS. 64, 73 79)

United States Court of Appeals For

the Eighth Circuit order

United States Court of Appeals For the

Eighth Circuit Judgment

The United State Court of Appeals for

the Eighth Circuit Mandate

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was OCT 14, 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: NOV 11, 2025, 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 9-15-2025.
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).

Jurisdiction

OVER APPEAL under 28 U.S.C. 1291

MANIVANNAN V. U.S. DEPT OF
ENERGY 42 F. 4TH 163, 169, (3rd Cir
2022). Finding CHAI error

DENNY V. SCHULTZ 708 F. 3d 140,

143 (3rd Cir 2013) THE U.S SUPREME
COURT MAY EXERCISE JURISDICTION

OVER FINAL JUDGMENT OR DECISION
RENDERED BY THE HIGHEST COURT OF A

STATE IN WHICH A DECISION COULD
BE HAD 28 U.S.C. 1257 THE HIGHEST

COURT OF A DECISION COULD BE
HAD IS CONSIDERED THE LAST

STATE TRIBUNAL TO WHICH THAT
COULD BE BROUGHT FOR REVIEW

GERMAN V. WASHINGTON UNIV.
316 U.S. 98 101, (1942) LONG

YOU GIVE THE HIGHEST COURT
OPPORTUNITY TO HEAR CASE.

STATEMENT OF THE CASE

PETITIONER FILE MOTION FOR RELIEF FROM JUDGMENT PURSUANT TO RULE 60(b) (DKT NO. 52) THE RESPONDENTS STATED IT WAS CONSIDER AS SUCCESSIVE HABEAS CORPUS (DKT NO. 53) WHEN PETITIONER CLAIM WAS FOR APPOINTMENT OF COUNSEL (DKT NO. 52) PETITIONER RESPONDED TO DISTRICT COURT JUDGE DISMISSAL OF (DKT NO. 53) SEE PETITIONER RESPONSE (DKT NO. 54) TO STAT PROCEEDINGS FOR APPOINTMENT OF COUNSEL NO RESPONSE TO (DKT NO. 54) CASE SET ON THE RECORD SO PETITIONER FILED SEVERAL OTHER MOTIONS (DKT NOS. 55, 56, 57) DISTRICT COURT JUDGE THAN DISMISSED ALL MOTION SEE (DKT NO. 58) EXCEPT (DKT NO. 54) WHICH WAS THE ONLY ONE CONTAINS TO (DKT NO. 52) MOTION FROM RELIEF FROM JUDGMENT PURSUANT TO RULE 60(b); SO PETITIONER AGAIN FILE STAT OF PROCEEDINGS FOR THE APPOINTMENT OF COUNSEL SEE (DKT NOS. 59, 60) DISTRICT COURT JUDGE AGAIN REFUSE TO RESPOND TO MOTION SO PETITIONER WAS CONFUSED OF THE PROCEEDINGS AND FILED AN UPDATE

OF CASE SEE (DKT NO. 62) AND MOTION FOR EVIDENTIARY HEARING (DKT NO. 63) DISTRICT COURT JUDGE DENIED EVIDENTIARY HEARING BUT GAVE AN UPDATE ON THE UPDATE STATUS MOTION SEE (DKT NO. 64) STATING CASE CLOSE THATS WHEN PETITIONER NEW SOMETHING WASNT RIGHT BECAUSE AGAIN DISTRICT COURT JUDGE DIDNT SAY ~~ABOUT~~ ANYTHING ABOUT (DKT NOS. 59, 60) WHICH PETITIONER STATED STAT OF THE PROCEEDINGS AND APPOINTMENT OF COUNSEL THAT DISTRICT COURT JUDGE REFUSE TO RESPOND TO THATS WAS BEFORE (DKT NOS. 62, 63), THEN PETITIONER FILED MOTION FOR RECUSAL (DKT NO. 66) AND PETITIONER FILED OPPOSITION TO ~~DISTRICT~~ DISTRICT JUDGE ORDER (DKT NO. 67) PETITIONER FILE MOTION TO REOPEN THE PERIOD FOR FILING APPEAL (DKT NO. 72) THAT MOTIONS WAS FILED TO APPEAL THE MOTION FOR RELIEF FROM JUDGMENT PURSUANT TO RULE 60(b) (DKT NO. 52) AND APPEAL TO (DKT NO. 54) AND (DKT NOS. 59, 60) THE DISTRICT COURT JUDGE DENIED MOTION TO REOPEN THE PERIOD FOR FILING APPEAL (DKT NO. 79)

WITH ORDER DISTRICT COURT JUDGE DENIED
CERTIFICATE OF APPEALABILITY PETITIONER
FILED AN OPPOSITION TO ORDER
(Dkt NO. 80) STATING GROUNDS REASONS:
WHY CERTIFICATE OF APPEALABILITY SHALL
BE GRANTED ALSO SHOWING ABUSE OF
DISCRETION. THE DISTRICT COURT JUDGE ALSO
USED IN ADEQUATE STATE GROUND TO
BAR PETITION WHICH THE DISTRICT COURT
JUDGE MISCHARACTERIZED AND MIS
ADDRESS CLAIM ON THE MOTION FOR
RELIEF FROM JUDGMENT RULE 60(b)
WHICH PETITIONER PROVE COULDN'T BE
SUCCESSIVE IF IT WAS CONSIDER AS
A HABEAS CORPUS BECAUSE AOL
DEFENDANT STOP FIRST HABEAS
THAT WAS FILED IN THE UNITED STATE
SUPREME COURT SEE (Dkt NO. 80) WHICH
PETITIONER WAS TAKEN ADVANTAGE OF
CAUSE HE WAS WITH OUT COUNSEL
WHICH PETITIONER IS CONVICTED WITH
85 YEARS ON AN ILLEGAL CONVICTION,
SENTENCE ~~AND~~ AND HIS ACTUAL INNOCENCE
ON ALL CHARGES THE DISTRICT COURT JUDGE
AND THE UNITED STATE COURT OF APPEAL EIGHTH
CIRCUIT REFUSE TO REVIEW THE MERITS.

AS ADC DEFENDANT AND THE ATTORNEAL
GENERAL EMPLOYEES AND THE COURTS
CONTINUE TO CONSPIRE AS STATE IN
TERRY ANTONIO LEE V. DEXTER PAYNE
DIRECTOR CASE NO. 4:24-CV-00418-KLB
AND SEE CASE TERRY ANTONIO LEE V.
DEXTER PAYNE DIRECTOR CASE NO. 4:24-CV-
5:18-CV-00045-KLB (DIET NO. 80)
PETITIONER GOT SHIP TO EAST ARKANSAS
REGIONAL UNIT RIGHT AFTER THE COURT
OF APPEALS AS YOU CAN SEE I GOT
CAMERA FOOTAGE IN MY CELL WHERE I
WENT THREW ALL LEGAL BAGS ~~FOOTAGE~~
LEGAL ENVELOPES AND (DIET NO. 53)
AND (DIET NO. 58) COME UP MISSING OUT
OF LEGAL WORK BUT IT DIDNT COME UP
MISSING INTO PETITIONER FILED (DIET NO.
80) IN CASE OF 5:18-CV-00045 AND
FILE TO THE EIGHTH CIRCUIT COURT OF
APPEALS AT LARRY D. NORRIS UNIT
WHERE PETITIONER CAME FROM HE HAD
CAMERAS IN CELL CAMERAS GOING SHOW
PETITIONER HAD MOTION BUT ADC
DEFENDANTS SPOT DEFENDANT AND FLASIF
IED REPORT TO GET LEGAL WORK OUT OF
CELL THATS WHEN LEGAL MAIL COME UP
LOST.

REASON For Granting The Writ
PETITIONER PRO SE FILE MOTION FOR
RELIEF FROM JUDGMENT PURSUANT TO RULE
60 (b) PETITIONER REQUEST THAT HE BE
GRANTED RELIEF FROM JUDGMENT BASE
ON THE REASONING AND HOLDINGS OF
THE UNITED STATES SUPREME COURT IN
MARTINEZ V. RYAN U.S. 1. 132 S. CT
1309 (2012) AND TREVINO V. THAYER,
133 S. CT 1911 (28 MAY, 2013) VACATING
DANSBY V. MORRIS 682 F.3d 711 (8th
CIR 2012) THE SUPREME COURT IN
MARTINEZ RECOGNIZED A NARROW
EXCEPTION " TO COLEMAN V. THOM
PSON 501 U.S. 722 (1991) WHERE THE
COURT HAD STATED THAT AN ATTORNEYS
IGNORANCE OR INADVERTENCE IN A POST-
CONVICTION PROCEEDING DOES NOT QUALIFY
AS CAUSE TO EXCUSE A PROCEDURAL DEFAULT
566 U.S. 132 S. CT 91 1315 THAT
EXCEPTION ALLOWS A FEDERAL COURT
TO FIND " CAUSE " TO EXCUSE SUCH
DEFAULT WHERE (1) THE INEFFECTIVE -
ASSISTANCE OF TRIAL COUNSEL CLAIM
WAS A SUBSTANTIAL CLAIM (2) THE
" CAUSE " CONSISTED OF THERE BEING

" NO COUNSEL " or ONLY " INEFFECTIVE " COUNSEL during the state collateral review proceeding (3) the state collateral review proceeding was initial review proceeding was " initial " review proceeding in respect to the " ineffective - assistance of trial counsel claim and (4) state law requires that the claim be raised in an initial review collateral proceeding at 132 S.Ct., at 1320 on 28 MAY 2013, the united state supreme court decided TREVINO V. THALER, holding that a federal habeas court can excuse a defendants procedural default even if the state law does not require that an ineffective assistance of trial counsel claim be raised in an initial collateral review proceeding more important THE SUPREME COURT ON JUNE 2013, VACATED DANDSBY IN LIGHT OF TREVINO DANDSBY V. HOBBS 2013 WL 506561 (U.S) PETITIONER WAS WITHOUT COUNSEL IN FILING OF POST-CONVICTION PETITION NOR WAS HE ALLOWED COUNSEL TO REPRESENT

Him at Post-conviction hearing he was force to represent himself as the mental evaluation stated Petitioner had low IQ as a 574 Grader which it is impossible to fully understand Arkansas and American law the Martinez court held that defendants are generally ill equipped to represent themselves where they have no brief from counsel and no court opinion addressing their "claim" (quoting Halbert v. Michigan 545, U.S. 605, 617 (2005) id at 1312, 1317, the court reasoned that the initial - review collateral proceeding (a rule 37 proceeding in Arkansas) for a prisoner to raise a claim of ineffective assistance at trial the collateral proceeding is in many ways, the equivalent of a prisoners direct appeal as to the ineffective assistance claim here petitioners initial review collateral proceeding was his rule 37 proceeding in trial court where he filed a petition pro se, not

NOT UNDERSTANDING ITS SIGNIFICANCE
AS THE MARTINEZ COURT EXPLAINED
THE COURT EXPLAINED THE SIGNIFICANCE
IS BECAUSE THE STATE COURT "LOOKS TO
THE MERITS OF THE CLAIM" OF INEFFECT-
IVE ASSISTANCE, NO ~~OTHER~~ OTHER COURT
HAS ADDRESSED THE CLAIM AND DEFEND-
ANT PURSUING FIRST TRIER REVIEW
ARE GENERALLY III EQUIPPED TO REPRESENT
THEMSELVES BECAUSE THEY DO
NOT HAVE A BRIEF FROM COUNSEL OR AN
OPINION OF THE COURT ADDRESSING
THEIR CLAIM OF ERROR MARTINEZ AT
1317 (QUOTING HALBERT AT 617) HERE,
THE POOR QUALITY OF PETITIONER'S
RULE 37 PETITION, OBVIOUS ERRORS,
AND NEAR COMPLETE LACK OF
COHERENCE FALLS WELL WITHIN THE
MEANING OF III EQUIPPED TO REPRESENT
THEMSELVES "AS NOTED ABOVE, PETITION-
ER NEEDED AN ATTORNEY'S ASSIST-
ANCE, AS HE DOES NOW, AT THE
BEGINNING OF HIS RULE 37 PROCEEDING
AND BEFORE HE FILED HIS PETITION
THIS REASON IS CLEAR, FOR WITH-
OUT HELP OF AN ADEQUATE

Attorney " THE PETITIONER WILL HAVE DIFFICULTIES VINDICATING A SUBSTANTIAL INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL CLAIMS THIS IS BECAUSE CLAIMS OF INEFFECTIVE ASSISTANCE AT TRIAL OFTEN REQUIRE INVESTIGATIVE WORK AND UNDERSTANDING OF TRIAL STRATEGY WHICH THE PETITIONER OBVIOUSLY JACK MARTINEZ AT 1317 PETITIONER ASSERTS THAT HE IS ENTITLED TO HABEAS CORPUS REVIEW OF HIS INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL CLAIMS AND TO ASSISTANCE OF COUNSEL WHO CAN VIGOROUSLY INVESTIGATE AND PRESENT, IF AVAILABLE, ALL CLAIMS OF INEFFECTIVE ASSISTANCE AT TRIAL INCLUDING THOSE NOT PREVIOUSLY RAISED AT THIS POINT SET IN GRAY V. PEARSON Fed. APPX — 2013 WL 245 1083 (C.A. 4 VA) WHERE THE FOURTH CIRCUIT AGREED WITH GRAY THAT UNDER THE REASONING AND HOLDING OF MARTINEZ, HE IS ENTITLED TO COUNSEL see (Dkt NO. 52) DISTRICT COURT JUDGE DISMISSED AS SUCCESSIVE see (Dkt NO. 53) ON A STATE PROCEDURAL GROUND

TO QUALIFY AS AN ADEQUATE PROCEDURAL
GROUND A STATE RULE MUST BE FIRMLY
ESTABLISHED AND REGULARLY FOLLOWED
WALKER V. MARTIN 562 U.S. 307, 316 (2011)
(QUOTATION MARKS REMOVED) AS A
GENERAL MATTER, PROCEDURAL RULES DERI
VED FROM STATE STATUTES AND SUPREME
COURT RULES ARE FIRMLY ESTABLISHED
NETHERLAND, 93 F.3d 1214, 1241, 477 Cir
SIE JESSIE GOINS V. STATE OF ARKAN
SAS NO. CR- 972 OCTOBER 9, 2003,
TIMOTHY LAMONT HOWARD V. STATE
OF ARKANSAS APRIL 26, 2012 ARK, 177
463 S.W. 3d. 38 AND SEE CLEMONS V.
KELLEY JULY 31, 2015 NOT REPORTED IN
F, SUPP 3d 2015 WL 4610355 BY THE
DISTRICT JUDGE RULE ON ALL MOTIONS
(DKT NO. 52) WITH (DKT NO. 53) RULED ON
MOTIONS (DKT NOS. 55, 56, 57,) WITH (DKT NO. 58)
DISTRICT JUDGE RULE ON (DKT NOS 63)
BUT DISTRICT COURT JUDGE REFUSE TO RULE
ON (DKT NOS. 54, 59, 60) WHICH VIOLATE
FED. R. CIV. P. 56 (e) (1) A PARTY TO
ADDRESS THE SUPPORTED FACTUAL ~~assertions~~
ASSERTIONS MADE BY ANOTHER PARTY
STANFORD V. NATL GRANGE INN. CO.

64, SUPP, 3d. 649 E.D. PA, 2014. Accord
to Fed. R. Civ. P. 56(e) GIVEN the
court discretion to consider facts
undisputed if a party fails to properly
support an assertion of facts or
fail to properly address another party
assertion of facts as required by
rule 56(1) (emphasis added Rule 56
(e)(1) provides under Federal Rules of
Appellate Procedure 4(A)(6) to reopen
a mechanism for granting an extension
of time when a party would be un-
fairly deprived of an appeal because
of failure of a court clerk. Abu Khair
V. Liberty Mutual Ins. Co. 449 F.
Appox. 129, 130 (3d Cir 2012) (Per
Curiam (Citing Marcon delo v. Board
walk Regency 47 F.3d 88, 90, 3d
Cir 1995) Do to the fact that District
Court Judge refuse to address (Dkt
Nos. 54, 59, 60) confused the proceeding
with (Dkt Nos. 58⁶⁴, 73, 79) stating
case was close petitioner filed
(Dkt Nos. 72, 80) trying to get re-
open to file appeal so that (Dkt
Nos 54, 59, 60) could be review and

SEE IF THE DISTRICT COURT ABUSE OF DISCRETION CITING U.S. V. HARK 403, F. 3d 997 (8TH CIR 2005) IN HARK THE COURT APPLYING THE ABUSE OF DISCRETION STANDARD CITED KEEN V. TXO, PRODUCTION CORP. 738 F. 2d 968 (8TH CIR 1984) AS FOLLOWS: WHEN WE SAY A DECISION IS DISCRETIONARY WE DO NOT MEAN THAT THE DISTRICT COURT MAY DO WHAT EVER PLEASE IT THE PHRASE MEANS INSTEAD THAT THE COURT HAS A RANGE OF CHOICE AND THAT ITS DECISION WILL NOT BE DISTURBED AS LONGS AS IT STAY WITHIN THAT RANGE AND IS NOT INFLUENCED BY ANY MISTAKE OF LAW, AN ABUSE OF DISCRETION, ON THE OTHER HAND, CAN OCCUR IN THREE PRINCIPAL WAYS, WHEN A RELEVANT FACTOR THAT SHOULD HAVE BEEN GIVEN SIGNIFICANT WEIGHT IS NOT CONSIDERED WHEN AN IRRELEVANT OR IMPROPER FACTOR IS CONSIDERED AND GIVEN SIGNIFICANT WEIGHT, AND WHEN ALL PROPER FACTORS AND NO IMPROPER ONES ARE CONSIDERED BUT THE COURT IN WEIGHING THOSE FACTORS, COMMITS A

CLEAR error OF JUDGMENT SEE IN
PENNINGTON V. STATE, 305 ARK 312,
315, 807 S.W. 2d 660, 662 (1991). THE
UNITED STATES COURT OF APPEAL REFUSE
TO REVIEW ABUSE OF DISCRETION DE NOVO
WHICH CLEAR ERROR WAS COMMITTED
WHEN DISTRICT COURT JUDGE BY LASS
CERTAIN MOTION AND RULE ON THE
ONES THEY WANTED TO WITH (DKT NO. 58)
WHICH HAD NOTHING TO DO (DKT NOS. 55, 56
57) WHEN (DKT NO. 54) HAD SOMETHING TO
DO WITH (DKT NO. 52) BUT DISTRICT COURT
JUDGE USED (DKT NOS. 55, 56, 57) TO STATE
NO REASON FOR DISMISSING (DKT NO. 52)
SEE (DKT NO. 58) WHICH PETITIONER THINK A
CONSPIRACY HAVE COME ABOUT BECAUSE CERTAIN
DOCUMENT WAS TAKEN OUT OF MY LEGAL WORK
(DKT NO. 58) A PAGE TAKEN OUT (DKT NO. 72)
WHICH PETITIONER THINK THAT THE DISTRICT
COURT JUDGE AND CLERK TRYING TO CHANGE
THE RECORD WORKING WITH THE ATTORNEY
GENERAL SEE (DKT NO. 80) SEE CASE TERM
ANTONIO LEE V. DEXTER PAYNE DIRECTOR
CASE NO. 4:24-CV-00418 DOCUMENTS
OF RECORD HAVE CONSPIRACY BEING CHANGE
BY THE COURTS AND PROSECUTOR, CLERK

AND ATTORNEYS GENERAL PETITIONER DON'T
KNOW WHAT RECORD THEY RECEIVE
BECAUSE THEY GOT TWO CASES MISSED UP
AND MISTAKENLY SENT ME A COPY OF
IT, THEREFORE PETITIONER NEED A HEARING
WHERE HE COULD BRING ALL DOCUMENT
ATION TO PROVE CONSPIRACY + DENIED
HIM EQUAL PROTECTION OF THE LAW
AND DENIE HIM ACCESS TO THE COURTS
AS STATED IN TERRY ANTONIO LEE V.
SARAH HUCKABEE SANDERS ET AL CASE NO.
4:24-CV-00418-1KBB SEC (Dkt 880, 80)
IN CASE TERRY ANTONIO LEE V. DETT
PAYNE DIRECTOR CASE NO. 5:18-CV-00045-
1KBB. (Dkt NO. 80) PROVE A LOT OF FACTS UNLESS
IT AS WELL GET SWITCH. WHICH ALL VIOLATE
1ST, 8TH AND 14TH AMENDMENT,
CERTIFICATE OF APPEALABILITY SHOULD
HAVE BEING GRANTED (1) BY CONSTITUTIONAL
RIGHTS OF PETITIONER WAS VIOLATED IF HE
MAKE A SUBSTANTIAL SHOWING OF DENIAL
OF A CONSTITUTIONAL RIGHT 28 U.S.C. 2253
THE U.S. SUPREME COURT IN BAREFOOT V.
ESTELLE, 463 U.S. 880, 893 (1983) HELD THAT
THIS DOESN'T MEAN THAT HE WOULD PREVAIL
ON THE MERITS BUT MUST DEMONSTRATE

that the issue are debatable among
jurists of reason that a court could
resolve the issue in a different manner
or that the questions are adequate to
deserve an encouragement to proceed
Further citations omitted see, *Flyser v.*
Delo 16, F. 3d 878, 883 874 Cir 1994)
Miller-El v. Cockwell 577 U.S. 322,
338 (2003) where District Court Judge
refuse to rule on the merits of (Dkt nos.
54, 59, 60) but rule on other motions
After or before (Dkt no. 58) and fail to
reopen for appeal (Dkt no. 72) District
Court Judge denial of motion (Dkt nos. 73
79) see petitioner opposition of order
(Dkt no 80) more debatable, Certificate
of Appealability should be granted
where petitioner made a substantial
show he was denied right to counsel
Fleming v. Evans 481, F. 3d 1249,
1259 (10th Cir 2007), *Weaver v.*
Massachusetts, 137 S.Ct (1899) 582
U.S. 198, led 2d 2017 petitioner was
denied counsel at Post-Conviction Hearing
and at Habeas Corpus Review Appeal
to the United States Court of Appeal

See (Dkt nos. 54, 59, 60) District Court
refuse to Rule on the merits of claim

(Dkt nos. 58, 64, 73, 79) see Petitioner
opposition to order (Dkt no 80)

Certificate of Appealability under 28
U.S.C. 2241 because petitioner not in
custody under valid state court
judgment of conviction *Stow v.*

Murphy 389, F.3d 880 885, 88
(9th Cir 2004) Petitioner Terry Antonio

Lee test to his legality of his
detention is inadequate or ineffec-
tive D.C. Code 10(g) *Byrd v.*

Henderson 110 F.3d 34, 36-37 (D.C.
Cir (1997) see *Saleh v. Drayton*

788 F. Supp. 232 (D.D.C. 1992)

by the District Court Judge denied
Certificate of Appealability on (Dkt nos.

(54, 59, 60) and Dkt no. 72 show the
inadequate and ineffective to the

test of petitioner legality of his
detention which shall be also look

as clear error and abuse of discret-

ion *Harris v. Cur Corp* APN D.C. Docket

No. 300-cv-01297 HWM MCR NO. 10-T-5516 (11th

Cir Jul 11 2011) Appeal denied Motion for Relief

PS12

SEE GONZALEZ v. Crosby, 545 U.S.
524, 538, 2025 Rule 60(b)(6)
motion not treated successive if
it does not assert or reassert
claims of error in state conviction
SEE Rockwell v. People 324 F.3d
66-69-73 1st Cir 2003 motion
treated as a second and successive
where it was the functional
equivalent of an application for
Habeas corpus petition (Dkt no. 52)
was for appointment of counsel see
(Dkt nos. 54, 59, 60) stay proceedings
for appointment of counsel which
District Judge refused to rule on see
(Dkt no. 58) and (Dkt nos. 64, 73, 79)
under 28 U.S.C. 2261 petitioner
should have been granting
counsel also.

CONCLUSION

- 1 GRANT RELIEF FROM JUDGEMENT
- 2 RELEASE ON ACTUAL INNOCENCE
- 3 DISCHARGE FROM CUSTODY
- 4 APPOINT OF COUNSEL
5. NEW TRIAL
6. REVERSE FOR CERTIFICATE OF APPEALABILITY