

SUPREME COURT OF THE UNITED STATES

No.24-10870

USDC No. 3:24-CV-457

ERNEST EDWARD GAINES
#1364192

Petitioner-Appellant,

versus

ERIC GUERRERO, DIRECTOR, TDCJ-CID

Respondents-Appellées,

**PETITIONER'S MOTION FOR LEAVE TO FILE MOTION FOR EXTENSION/
EXTENDING TIME**

TO THE HONORABLE JUSTICES OF THE SUPREME COURT:

NOW COMES, Ernest Edward Gaines, Petitioner's in forma pauperis inidgent proceeding in this style cause number, and file Petitioner's Motion For Leave To File Motion For Extension/Extending to file Petitioner extre time to file his Writ of Certiorari for except in extraordinary circumstances will show this Court the following:

I.

Petitioner Gaines is requesting under Supreme Court Rule 13(5) for good cause seeks for the reason petitioner Gaines Legal Materials was confiscated by Officer Christian Mancha on June 19, 2025, and I filed a grievance Step 1 on July 23, 2025, because Major Porter said too. See Exhibit "A" Status Inquiry and Step 1 Grievance. Petitioner Gaines received a letter dated on August 12, 2025 from Supreme Court of the United States Clerk Scott S. Harris By Angela Jimenez says for Extension of Time the judgement by the lower court was on May 09, 2025 by United States Circuit Judge Stephen A. Higginson United States Court of Appeals for the Fifth Circuit No. 24-10870 sent by Clerk, Lyle W. Cayce on May 09, 2025. Petitioner Gaines request a additional 60 days extension from the running date of the

on Motion For Reconsideration And Rehearing En Banc (Fed. R. App. P. 40 and 5TH Cir. R. 40), was filed on July 02, 2025 the petition for rehearing en banc is denied, before Stewart, Hayes, and Higginson, Circuit Judges, order entered in this case No. 24-10870, Gaines v. Guerrrero USDC No. 3:24-CV-457 on July 02, 2025. See FRAP and Local Rule 41 for stay of the mandate Clerk Lyle W. Cayce. Petitioner Gaines request a additional 60 days from September 29, 2025 which is due date Nov. 28, 2025.

WHEREFORE, PREMISES CONSIDERED, Petitioner's Gaines pray that this motion for petitioner's Motion For Leave To File Extension/Extending Time Re [GRANTED] by this Court.

EXECUTED on this 05 day of Sept., 2025,

Respectfully Submitted,

Ernest E. Gaines
Petitioner's Pro Se

CERTIFICATE OF SERVICES

I, Ernest Edward Gaines, hereby certify that a true and correct of the Petitioner's Motion For Leave To File Motion For Extension/Extending Time was service on the Dallas County District Attorney Office on this 05 day of Sept., 2025.

Respectfully Submitted,

Ernest E. Gaines
Petitioner's Pro Se

UNSWORN DECLARATION

I, Ernest Edward Gaines, swear under the penalty of perjury that the foregoing motion is true and correct.

EXECUTED on this 05 day of Sept., 2025.

Respectfully Submitted,

Ernest E. Gaines
Petitioner's Pro Se
French Robertson Unit
TDCJ-ID No. 1364192
1207I FM 5322
Abilene, TX 79601

Septet 05, 2025

To: The Supreme Court of the United States
ATTN: Scott S. Harris & Angela Jimenez
1 First Street, NE
Washington, DC 20543-0001

From: Mr. Ernest E. Gaines #1364192
French Robertson Unit
12071 FM 3522
Abilene, TX 79601

RE: STATUS INQUIRY
For Request To File Writ Of Certiorari
No. 24-10870 Gaines v. Guerrero
USDC No. 3:24-CV-457

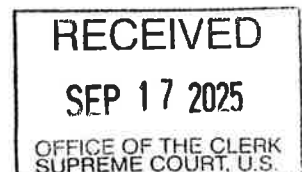
Dear Scott S. Harris & Angela Jimenez, Sir & Ma'am, I would like my motion Petitioner's Motion For Leave To File Motion For Extension/Extending Time to be filed with this Court. Petitioner Gaines is proceeding in forma pauperis indigent, so seeks to be excused from having copies because has no money to pay for copies to be made. And petitioner Gaines seeks assistance of counsel to assist with preparing the Writ of Certiorari from this Court, because petitioner Gaines lack the knowledge of criminal law to represent himself. Please file this motion with this Court as soon as possible. Thank you!

EXECUTED on this 05 day of Sept, 2025.

Respectfully Submitted,

Ernest E. Gaines
Petitioner's Pro Se
French Robertson Unit
12071 FM 5322
Abilene, TX 79601

c.c.:File.



United States Court of Appeals for the Fifth Circuit

No. 24-10870

United States Court of Appeals
Fifth Circuit

FILED

May 9, 2025

ERNEST EDWARD GAINES,

Lyle W. Cayce
Clerk

Petitioner—Appellant,

versus

ERIC GUERRERO, *Director, Texas Department of Criminal Justice,*
Correctional Institutions Division,

Respondent—Appellee.

Application for Certificate of Appealability
the United States District Court
for the Northern District of Texas
USDC No. 3:24-CV-457

ORDER:

Ernest Edward Gaines was convicted of aggravated robbery and received a life sentence. He now seeks a certificate of appealability (COA) so that he can appeal the district court's dismissal of his 28 U.S.C. § 2254 application for failure to state a cognizable habeas claim. In his COA brief, Gaines requests copies of the appropriate forms for filing a COA; however, no such forms exist. However, he also contends that courts should not dismiss cases for failure to state a claim if it appears that a litigant may be able to offer proof in support of his allegations. In addition, Gaines alleges in his

No. 24-10870

motion for appointment of counsel that the district attorney and an attorney that represented him in his postconviction DNA testing proceedings failed to provide him with the complete file of the results for five years, that he was denied due process during the DNA testing process, and that a forensic pathologist reviewed the DNA evidence and determined that it did not provide evidence of a match.

To the extent that Gaines has challenged the district court's ruling, in order to obtain a COA he must make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2); *see Slack v. McDaniel*, 529 U.S. 473, 484 (2000). When the district court has denied relief on the merits, a COA applicant "must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack*, 529 U.S. at 484. Gaines has not made the required showing. Accordingly, his motion for a COA is DENIED. Gaines's motion for appointment of counsel is likewise DENIED.

A handwritten signature in black ink, reading "Stephen A. Higginson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

STEPHEN A. HIGGINSON
United States Circuit Judge

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

May 09, 2025

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 24-10870 Gaines v. Guerrero
USDC No. 3:24-CV-457

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Melissa B. Courseault, Deputy Clerk
504-310-7701

Mr. Ernest Edward Gaines

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

July 2, 2025

Lyle W. Cayce
Clerk

No. 24-10870

ERNEST EDWARD GAINES,

Petitioner—Appellant,

versus

ERIC GUERRERO, *Director, Texas Department of Criminal Justice,*
Correctional Institutions Division,

Respondent—Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:24-CV-457

ON MOTION FOR RECONSIDERATION
AND REHEARING EN BANC

UNPUBLISHED ORDER

Before STEWART, HAYNES, and HIGGINSON, *Circuit Judges.*

PER CURIAM:

The motion for reconsideration is DENIED. Because no member of the panel or judge in regular active service requested that the court be polled on rehearing en banc (FED. R. APP. P. 40 and 5TH CIR. R. 40),

No. 24-10870

the petition for rehearing en banc is DENIED.

* JUDGE IRMA CARRILLO RAMIREZ did not participate in the consideration of the petition for rehearing en banc.

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

July 02, 2025

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 24-10870 Gaines v. Guerrero
USDC No. 3:24-CV-457

Enclosed is an order entered in this case.

See FRAP and Local Rules 41 for stay of the mandate.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Casey A. Sullivan, Deputy Clerk
504-310-7642

Mr. Ernest Edward Gaines
Ms. Karen S. Mitchell