

United States Supreme Court

PROVIDED TO TOMOKA
CORRECTIONAL INSTITUTION
ON 08/27/2024
FOR MAILING BY AF BF

George L. Fields
Petitioner

S.C. CASE NO: _____

VS

(TO BE ASSIGNED)

APP. CASE NO: 23-11677-D

Secretary Dept of CORR. AND
Attorney General of Florida
Respondent.

Motion For Extension of Time

Come's now the Petitioner, George Fields, in proper person, pro se, and pursuant to Sup. Ct. Rule 30, and respectfully move's this Honorable Court to Grant him an Extension of Time to File his writ of certiorari, and in support, Petitioner would show:

FACTS

- 1). ON MARCH 18th 2024, Petitioner's Application for Certificate of Appealability was denied by the Eleventh Circuit Court of Appeals.
- 2). ON JUNE 11th 2024, A timely motion for reconsideration was likewise denied.
- 3). The Present Deadline for Filing a writ of certiorari is SEPTEMBER 9th 2024.
- 4). Petitioner is presently preparing a Rule 60(b) motion to be filed with the Eleventh Circuit Court of

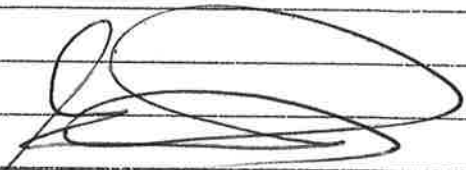
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SUPREME COURT, U.S.

Appeal challenging the order's rendered for lack of jurisdiction, where the court reached the merits of the claims raised in the C.O.A. and then denied the C.O.A. based on the merits determination, contrary to the jurisdictional prerequisites of 28 U.S.C. § 2253 and this court's holding in Buck v Davis 137 S. Ct 759 (2017) and Miller-El v. Cockrell 123 S. Ct 1029 (2003)

- 5) In conjunction with the filing of this motion, petitioner has also provided this court with a motion to stay the running of the time period to file the writ of certiorari in until the Eleventh Circuit Court of Appeal has rendered a ruling on petitioner's Rule 60(b) motion.

Wherefore, and for the foregoing reasons, petitioner respectfully moves this Honorable Court to grant an extension of time to file his writ of certiorari in the amount of (60) days,

respectfully submitted.



George Fields DC# 792344
Petitioner pro se.

PROOF OF SERVICE

I Hereby Declare under the Penalty of Perjury pursuant to 28 U.S.C. § 1746, and further certify that the instant motion for Extension of Time has been hand delivered to Tamoka C.I. mail Room staff for mailing U.S. Mail To: Office of Attorney General, 444 Seabreeze Blvd, Ste. 500, Daytona Beach, FL 32118, on this _____ day of August 2024.

Respectfully submitted.



George Fields Oct# 792344
Tamoka Correctional Inst
3950 Tiger Bay Rd.
Daytona Beach, FL.
32124

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

March 18, 2024

George L. Fields
Tomoka CI - Inmate Legal Mail
3950 TIGER BAY RD
DAYTONA BEACH, FL 32124-1098

Appeal Number: 23-11677-D
Case Style: George Fields v. Secretary, Department of Corrections, et al
District Court Docket No: 6:21-cv-00503-PGB-DCI

The enclosed copy of this Court's order denying the application for a Certificate of Appealability is issued as the mandate of this court. See 11th Cir. R. 41-4. Counsel and pro se parties are advised that pursuant to 11th Cir. R. 27-2, "a motion to reconsider, vacate, or modify an order must be filed within 21 days of the entry of such order. No additional time shall be allowed for mailing."

Any pending motions are now rendered moot in light of the attached order.

Clerk's Office Phone Numbers

General Information:	404-335-6100	Attorney Admissions:	404-335-6122
Case Administration:	404-335-6135	Capital Cases:	404-335-6200
CM/ECF Help Desk:	404-335-6125	Cases Set for Oral Argument:	404-335-6141

Enclosure(s)

DIS-4 Multi-purpose dismissal letter

In the
United States Court of Appeals
For the Eleventh Circuit

No. 23-11677

GEORGE L. FIELDS,

Petitioner-Appellant,

versus

SECRETARY, DEPARTMENT OF CORRECTIONS,
ATTORNEY GENERAL, STATE OF FLORIDA,

Respondents-Appellees.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 6:21-cv-00503-PGB-DCI

ORDER:

George Fields is a Florida prisoner serving a life sentence for second-degree murder. He filed a *pro se* 28 U.S.C. § 2254 petition, claiming that his counsel was ineffective for: (1) advising him to reject a favorable plea offer; (2) failing to present evidence of the victim's propensity for violence; (3) failing to move for a mistrial based on juror misconduct; (4) failing to request the proper self-defense jury instruction; and (5) failing to call a critical witness. The district court denied the petition, and Fields now moves this Court for a certificate of appealability ("COA"), and leave to proceed *in forma pauperis* ("IFP").

To obtain a COA, a movant must make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). If the district court denied a constitutional claim on procedural grounds, the petitioner must show that reasonable jurists would debate (1) whether the petition states a valid claim alleging the denial of a constitutional right, and (2) whether the district court's procedural ruling was correct. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Here, reasonable jurists would not debate the denial of Grounds 1, 2, or 3 as procedurally defaulted because these claims were not properly exhausted before the state court, and Fields failed to establish cause and prejudice or actual innocence as needed to excuse the procedural default. *See* 28 U.S.C. § 2254(b), (c); *Ward v. Hall*, 592 F.3d 1144, 1156 (11th Cir. 2010); *see McKay v. United States*, 657 F.3d 1190, 1196 (11th Cir. 2011).

23-11677

Order of the Court

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Additionally, Ground 4 fails because, as the state appellate court determined, the trial court properly instructed the jury, and counsel cannot be ineffective for failing to object to a proper jury instruction. See *Pinkney v. Sec'y, Dep't of Corr.*, 876 F.3d 1290, 1295 (11th Cir. 2017); *Strickland v. Washington*, 466 U.S. 668, 687 (1984). Finally, Ground 5 is without merit because Fields failed to show that the state court inaccurately concluded that the decision by counsel not to call the witness was strategic, or that no competent counsel would have made the same decision. See *id.*; *Adams v. Wainwright*, 709 F.2d 1443, 1445 (11th Cir. 1983).

Accordingly, Fields's motion for a COA is DENIED, and his motion to proceed IFP is DENIED AS MOOT.

/s/ Nancy G. Abudu

UNITED STATES CIRCUIT JUDGE

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

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June 11, 2024

George L. Fields
Tomoka CI - Inmate Legal Mail
3950 TIGER BAY RD
DAYTONA BEACH, FL 32124-1098

Appeal Number: 23-11677-D
Case Style: George Fields v. Secretary, Department of Corrections, et al
District Court Docket No: 6:21-cv-00503-PGB-DCI

The enclosed order has been ENTERED.

Electronic Filing

All counsel must file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause. Although not required, non-incarcerated pro se parties are permitted to use the ECF system by registering for an account at www.pacer.gov. Information and training materials related to electronic filing are available on the Court's website.

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MOT-2 Notice of Court Action

In the
United States Court of Appeals
For the Eleventh Circuit

No. 23-11677

GEORGE L. FIELDS,

Petitioner-Appellant,

versus

SECRETARY, DEPARTMENT OF CORRECTIONS,
ATTORNEY GENERAL, STATE OF FLORIDA,

Respondents-Appellees.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 6:21-cv-00503-PGB-DCI

Before NEWSOM and ABUDU, Circuit Judges.

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Order of the Court

23-11677

BY THE COURT:

George Fields has filed a motion to file a reconsideration motion out of time, and a motion for reconsideration, pursuant to 11th Cir. R. 22-1(c) and 27-2, of this Court's order dated March 18, 2024, denying his motion for a certificate of appealability to appeal the district court's denial of his 28 U.S.C. § 2254 habeas corpus petition and his motion for leave to proceed *in forma pauperis*. Upon review, Fields's motion to file out of time is GRANTED, but his motion for reconsideration is DENIED because he has not alleged any points of law or fact that this Court overlooked or misapprehended in denying his motions.