

The Law Office of
WILSON MYERS
308 Hall Avenue, PO Box 1704
Bay Minette, Alabama 36507-1704
251-580-8003, Fax: 580-8022
wilsonmyers@yahoo.com
www.wilsonmyerslaw.com

May 31, 2006

Clerk of Court
United States Court of Appeals for the Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

The purpose of this letter is to request a clarification change to the 28 U.S.C. § 2244(b) Application form, Revised: 01/02/01, "Application for leave to file a second or successive habeas corpus petition by a prisoner in state custody." This form has a misleading statement which may prove to be devastating to some prisoners who are filing under a tight AEDPA deadline (example Docket #06-12851-G filed first on May 11, 2006 and second due to form error on May 17, 2006). The 28 U.S.C. § 2244(b) Application form clearly states in two places:

- (4) All applicants seeking leave to file a second or successive petition are required to use this form, **except in capital cases. In capital cases only**, the use of this form is optional.
- (5) Additional pages are not permitted except with respect to additional grounds for relief and facts which you rely upon to support those grounds. **DO NOT SUBMIT SEPARATE PETITIONS, MOTIONS, BRIEFS, ARGUMENTS, ETC., EXCEPT IN CAPITAL CASES.**

The clerk of this honorable court informed me by telephone on May 15, 2006 that only death row cases are considered CAPITAL CASES.

Please amend the instructions on the 28 U.S.C. § 2244(b) Application, Revised: 01/02/01 to include instructions on capital cases **to clarify that a Capital Case only includes prisoners who are on death row.**

Sincerely,

/s/

Wilson Myers
Attorney at Law