

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 96-6770

D.C. No. CV-95-T-262-N

HENRY C. BAILEY,

Petitioner-Appellant,

versus

JOHN E. NAGLE, Warden,
JEFF SESSIONS, Attorney General for
the State of Alabama,

Respondents-Appellees.

Appeal from the United States District Court
for the Middle District of Alabama

(September 23, 1996)

Before TJOFLAT, Chief Judge, KRAVITCH, HATCHETT, ANDERSON,
EDMONDSON, COX, BIRCH, DUBINA, BLACK, CARNES and BARKETT, Circuit
Judges.

This appeal is ORDERED to be heard initially by the Court sitting en banc, limited to the issue of whether a district court in an action filed pursuant to 28 U.S.C. § 2254, as amended by the Anti-Terrorism and Effective Death Penalty Act of 1996, has the authority to grant a certificate of appealability.

The parties are directed to file with the Clerk's Office simultaneous briefs limited to this issue, on or before noon, EDT on October 15, 1996. No extension of time will be granted. Briefs are limited to 25 pages, and no extensions of the page limitations will be granted.

Oral argument will be heard on October 23, 1996 in Atlanta.