

United States Court of Appeals,

Eleventh Circuit.

No. 96-6770.

Henry C. BAILEY, Petitioner-Appellant,

v.

John E. NAGLE, Warden, Jeff Sessions, Attorney General for the State of Alabama, Respondents-Appellees.

Sept. 23, 1996.

Appeal from the United States District Court for the Middle District of Alabama (No. CV-95-T-262-N); Myron H. Thompson, Judge.

Before TJOFLAT, Chief Judge, and 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.