

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 13-70023

United States Court of Appeals
Fifth Circuit

FILED

July 2, 2015

Lyle W. Cayce
Clerk

GERALD CORNELIUS ELDRIDGE,

Petitioner—Appellant

v.

WILLIAM STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL
JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent—Appellee

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:05-CV-1847

Before STEWART, Chief Judge, and OWEN and SOUTHWICK, Circuit
Judges.

PER CURIAM:*

We deny the petition for rehearing filed by the Appellant. However, we withdraw the opinion that was issued January 16, 2015, and substitute the following opinion:

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

No. 13-70023

Gerald Cornelius Eldridge seeks a certificate of appealability (COA) on the issue of his competence to be executed under *Ford v. Wainwright*¹ and *Panetti v. Quarterman*.² We conclude that “reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.”³ Accordingly, we grant the request for a COA on the issue of Eldridge’s competence to be executed and more specifically grant his request to appeal (1) the January 31, 2013 Memorandum and Order dismissing Eldridge’s Amended Petition for a Writ of Habeas Corpus; (2) the June 28, 2013 Order denying Eldridge’s motion to Alter Judgment; and (3) the August 28, 2013 Order denying Eldridge’s Motion to Reopen Judgment.

The issues in this case have been briefed extensively in conjunction with the application in this court for a COA. Eldridge’s appellant’s brief should be filed on or before July 30, 2015. The response of the State shall be filed on or before August 28, 2015. Eldridge’s reply brief shall be filed no later than 20 days after the date that the State’s response is filed.

* * *

Eldridge’s application for a COA is GRANTED.

¹ 477 U.S. 399 (1986).

² 551 U.S. 930 (2007).

³ *Hearn v. Thaler*, 669 F.3d 265, 271 (5th Cir. 2012) (quoting *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).