

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 21-2335

In Re: Trenton John Tompkins

To: Clerk

- 1) Petitioner's Motion for Reconsideration of the Clerk's August 31, 2021, Noncompliance Order
- 2) Petitioner's Response to Clerk's Inquiry about Exhibits to Rehearing Petition

After the Court denied this petition for an extraordinary writ, the petitioner submitted a petition for panel rehearing. Because the rehearing petition included several exhibits that are not permitted by this Court's local rules, the Clerk issued a noncompliance order on August 31, 2021, requesting a motion for leave to file the exhibits. The noncompliance order cited Third Circuit Local Appellate Rule 35.2(a) as the rule prohibiting unauthorized exhibits.

The petitioner then sought reconsideration of the noncompliance order on the grounds that Third Circuit Local Appellate Rule 35.2(a) applies to petitions for rehearing *en banc* and his petition only sought *panel* rehearing.

The petitioner's reconsideration motion is GRANTED as follows:

The August 31, 2021, noncompliance order is amended to refer to Third Circuit Local Appellate Rule 40.1(a) instead of Third Circuit Local Appellate Rule 35.2(a). The relevant portions of those rules are substantively identical, but Rule 40.1(a) is the rule applicable to petitions for panel rehearing. It is now clear that the petitioner is seeking *only* panel rehearing. See 3d Cir. I.O.P. 9.5.1 (presuming that petitions for panel rehearing also seek rehearing *en banc* unless they "explicitly" state otherwise).

If the petitioner wants his petition for panel rehearing with exhibits submitted to the Court, he must file a motion for leave to include exhibits. See 3d Cir. L.A.R. 40.1(a).

If such a motion is not filed within fourteen days of this order, no further action will be taken on the petition for panel rehearing.

For the Court,

s/ Patricia S. Dodszeit
Clerk

Dated: November 30, 2021

PDB/cc: Trenton John Tompkins
Marie M. Jones, Esq.
Michael R. Lettrich, Esq.