

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUITC.A. No. **13-2153**

ALGERNON ANDERSON WYNTER, Petitioner

VS.

ATTORNEY GENERAL OF THE UNITED STATES OF AMERICA

(A029-736-899)

SUR PETITION FOR PANEL REHEARING

Present: RENDELL, JORDAN and SHWARTZ, Circuit Judges

Petitioner's petition for a panel rehearing is granted. See Fed. R. App. P. 40(a)(4). The issue of jurisdiction identified in the Clerk's order dated April 23, 2013, is referred to a merits panel. See 3d Cir. I.O.P. 10.3.5. This order does not represent a finding that the Court has jurisdiction over the petition for review. As in all cases, the panel of this Court that reviews the case on its merits will make a final determination regarding the jurisdictional issue. Therefore, in addition to any other issues the parties wish to raise in their briefs, the parties should specifically address whether this Court has jurisdiction under 8 U.S.C. § 1252(b)(1). We note that Petitioner has not submitted any sworn statement, from the courier or his employer, concerning the filing of the petition for review (and explaining the fact that the petition contained no time-stamp from the drop-box). In addition, Petitioner may wish to file a copy of the delivery confirmation email that he alleges the courier service sent to his attorney, and an explanation for why the petition for review and the certificate of mailing are dated April 19, 2013, if they were mailed on April 22, 2013. We emphasize that it is for the merits panel to decide whether such documentation is necessary or sufficient for the exercise of our jurisdiction. The Clerk shall issue a briefing schedule.

By the Court,

/s/ Kent A. Jordan
Circuit Judge

Dated: September 19, 2013

Smw/cc: Fitzmore H. Harris, Esq.
Jacob A. Bashyrov, Esq.*Marcia M. Waldron*
Marcia M. Waldron, Clerk