

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

Jonsha Bell,
Applicant,

v.

State of Mississippi,
Respondents.

**APPLICATION FOR AN EXTENSION OF TIME
WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI**

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To the Honorable Samuel A. Alito, Jr., Associate Justice of the United States and Circuit Justice for the Fifth Circuit:

Pursuant to this Court’s Rules 13.5, 22, and 30.3, and with the consent of Respondent, Applicant Jonsha Bell respectfully requests a 30-day extension of time to file a petition for a writ of certiorari to review the judgment of the Supreme Court of Mississippi in this case, to May 31, 2019. As discussed herein, this case appears to involve an important question of federal constitutional law upon which state courts of last resort are divided: whether the Eighth Amendment permits a juvenile offender to receive an aggregate sentence for multiple nonhomicide offenses that deprives him or her of a “meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation.” *Graham v. Florida*, 560 U.S. 48, 75 (2010). Mr. Bell requests this extension because Counsel of Record David M. Shapiro, who will represent Mr. Bell *pro bono* before this Court, did not represent Mr. Bell in the state court proceedings and therefore requires additional time to

review the record and prepare the petition. Mr. Shapiro has numerous filing deadlines and other professional commitments which would otherwise prevent him from providing the sort of comprehensive analysis that aids this Court in determining whether to grant certiorari.

Mr. Bell has not previously sought an extension of time from this Court. The Mississippi Supreme Court issued its order denying Mr. Bell's Application for Leave to File Motion for Post-Conviction Relief on January 31, 2019. *See* Attachment A. The time for filing a petition would therefore expire on May 1, 2019, absent an extension. Consistent with Rule 13.5, this application has been filed at least 10 days before that date. This Court has jurisdiction over this case under 28 U.S.C. § 1254(1).

1. In 1995, a Mississippi court sentenced Mr. Bell to serve a total of ninety-five (95) years in prison, with no possibility of parole or other early release, for nonhomicide crimes (armed robbery, burglary, and kidnapping) he committed during an incident on June 1, 1994, when he was just seventeen (17) years old. Prior to imposing these sentences, the court found Mr. Bell's reasonable life expectancy was forty (40) years.

2. In 2010, this Court held "that for a juvenile who did not commit homicide the Eighth Amendment forbids the sentence of life without parole." *Graham v. Florida*, 560 U.S. 48, 74 (2010). The Court further held that sentencing authorities are required to provide juvenile nonhomicide offenders a "meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation," and that the

Constitution “forbid[s] [sentencers] from making the judgment at the [time of sentencing] that those offenders never will be fit to reenter society.” *Id.* at 75.

3. In 2018, relying on this Court’s reasoning and holding in *Graham*, Mr. Bell filed in the Supreme Court of Mississippi an Application for Leave to File Motion for Post-Conviction Relief. In the application and motion, Mr. Bell maintained that the sentences imposed on him for nonhomicide offenses he committed at age seventeen (17) must be vacated because they deprive him of the “meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation” that is guaranteed by the Eighth Amendment to the United States Constitution. *Graham*, 560 U.S. at 75.

4. On January 31, 2019, the Mississippi Supreme Court issued an En Banc Order “find[ing] that Bell’s petition is without merit.” *See* Attachment A, *Bell v. State*, 2018-M-00530, En Banc Order, 2 (Miss. Jan 31, 2019). Three justices dissented. The dissenting justices opined that “sentencing a juvenile to serve aggregate sentences that extend beyond the juvenile’s natural life expectancy violates the Eighth Amendment and the Supreme Court’s mandate in *Graham* that the State provide a meaningful opportunity for release for nonhomicide juvenile offenders.” *Id.* at 5. Thus, the dissenters would have “reverse[d] and remand[ed] Bell’s case for resentencing.” *Id.*

5. This case presents an important issue involving the Eighth Amendment’s protections against subjecting juveniles to cruel and unusual punishment. Mr. Bell intends to file a petition for certiorari asking this Court to hold that consistent with

the Eighth Amendment a juvenile convicted of nonhomicide offenses must be afforded a “meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation.” *Graham*, 560 U.S. at 75.

6. Mr. Bell’s petition will satisfy the Court’s criteria for certiorari because it concerns an important question of federal constitutional law that divides state courts of last resort. At least five state courts of last resort hold that the Eighth Amendment bars aggregate sentences that deprive a juvenile homicide offender of a meaningful opportunity for release during his or her lifetime. *See, e.g., State v. Moore*, 76 N.E. 3d 1127, 1142 (Ohio 2016), *cert. denied*, 138 S. Ct. 62 (2017); *State v. Boston*, 363 P.3d 453, 459 (Nev. 2015); *Henry v. State*, 175 So.3d 675, 679 (Fla. 2015), *cert. denied*, 136 S. Ct. 1455 (2016); *People v. Caballero*, 282 P.3d 291, 294 (Cal. 2012). In contrast, four state courts of last resort, including the Supreme Court of Mississippi, hold that the Eighth Amendment permits such sentences. *See, e.g., Lucero v. People*, 394 P.3d 1128, 1132 (Col. 2017), *cert. denied* 138 S. Ct. 641 (2018); *State v. Brown*, 118 So.3d 332, 335 (La. 2013); *Vazquez v. Com.*, 781 S.E.2d 920, 928 (Va. 2016), *cert. denied*, 137 S. Ct. 568 (2016).

7. Mr. Bell respectfully requests additional time to file his petition for certiorari for two reasons:

First, Mr. Shapiro did not represent the applicant before the Mississippi Supreme Court; therefore, Mr. Shapiro requires additional time to evaluate the record developed below in order to provide the sort of comprehensive analysis that

would aid this Court in deciding whether to address this fundamental constitutional issue.

Second, Mr. Shapiro has a number of other substantial competing commitments, including:

- a petition for rehearing in the U.S. Court of Appeals for the Seventh Circuit in *Ollie v. Atchinson*, No. 18-1412, due April 1, 2019;
- a reply brief in the U.S. Court of Appeals for the Eleventh Circuit in *Geter v. Baldwin State Prison*, No. 18-14824, due April 3, 2019;
- an amicus brief in the U.S. Court of Appeals for the Ninth Circuit in *Edmo v. Corizon*, No. 19-35017, due April 10, 2019;
- a reply brief due in the U.S. Court of Appeals for the Seventh Circuit in *Lockett v. Bonson*, No. 19-1012, due April 15, 2019;
- a merits amicus brief in the U.S. Court of Appeals for the Sixth Circuit in *Martin v. Warren County*, No. 19-5132, due April 15, 2019;
- a petition for rehearing in the U.S. Court of Appeals for the Eleventh Circuit in *Carter v. Warden Marty Allen*, No. 17-10797, due April 17, 2019;
- an opening brief in the Illinois Appellate Court in *Beaman v. Freesmeyer*, No. 4-16-0527, due April 29, 2019;
- an opening brief and appendix due in the U.S. Court of Appeals for the Sixth Circuit in *Stoutamire v. Hicks*, No. 18-3889, due May 10, 2019; and
- an amicus brief due in the U.S. Court of Appeals for the Circuit in *Quintana v. Santa Fe County Board of Commissioners*, No. 19-2039, due May 15, 2019.

8. These obligations are in addition to Mr. Shapiro's responsibilities as a full-time faculty member at Northwestern Pritzker School of Law.

9. For these reasons, Mr. Bell respectfully requests that the time to file a petition for a writ of certiorari be extended to and including May 31, 2019.

10. Counsel for Respondent consented to the requested extension.

Respectfully submitted,

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