

DOCKET NO. _____

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2017

KEVIN FOSTER,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

**APPLICATION FOR A SIXTY DAY EXTENSION OF TIME
IN WHICH TO FILE PETITION FOR WRIT OF CERTIORARI TO
THE FLORIDA SUPREME COURT**

CAPITAL CASE

To the Honorable Clarence Thomas, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Eleventh Circuit:

Petitioner, Kevin Foster, by and through undersigned counsel, and pursuant to 28 U.S.C. § 2101(d) and Rules 13.5 and 30.2 of this Court, respectfully requests an extension of time of sixty (60) days to file a petition for writ of certiorari to the Florida Supreme Court, to and including June 28, 2018. Mr. Foster is a death-sentenced inmate in the custody of the State of Florida. This Court has jurisdiction to review the decision of the Florida Supreme Court under 28 U.S.C. § 1257(a).

Mr. Foster was convicted of one count of murder and sentenced to death in the Circuit Court of the Twentieth Judicial Circuit in and for Lee County, Florida. This case involves the decision of the Florida Supreme Court entered on January 29, 2018 denying Mr. Foster's Response to Show Cause, including his claim that his sentences of death are unconstitutional in light of the decisions in *Hurst v. Florida*, 136 S. Ct. 616 (2016) and *Hurst v. State*, 202 So. 3d 40 (Fla. 2016). *See Foster v. State*, 235 So. 3d 294 (Fla. 2018). (Attachment A).

Mr. Foster's time to petition for certiorari in this Court regarding the Florida Supreme Court's denial of relief expires on April 29, 2018. This application for a sixty (60) day extension is being filed more than ten (10) days before that date. Undersigned counsel shows the following good cause in support of this request.

Undersigned counsel shows the following good cause in support of this request.

Mr. Foster's counsel is Chief Assistant CCRC at Capital Collateral Regional Counsel-South (CCRC-South), a Florida state agency charged with the responsibility of representing indigent death row inmates. As Chief Assistant CCRC, undersigned counsel is responsible for the oversight of her own case load at CCRC-South as well as oversight of day-to-day office administration. Additionally, as Chief Assistant undersigned counsel is responsible for the oversight and leadership of the office-wide case load of CCRC-South.

Furthermore, as a result of the manner in which the Florida Supreme Court disposed of Mr. Foster's case and like cases with similar *Hurst* related claims, undersigned counsel has at least two other cases in the same posture as Mr. Foster's

Given undersigned counsel's duties as Chief Assistant at CCRC-South, counsel has not been able to prepare a proper petition for writ of certiorari in Mr. Foster's case. If the sixty (60) day extension of time is provided, counsel's intention is to file a petition for certiorari on or before June 28, 2018.

Undersigned counsel has contacted the Office of Attorney General who has no objection to this application for extension of time.

Wherefore, Mr. Foster respectfully requests that an order be entered extending his time to petition for certiorari to and including June 28, 2018.

Respectfully submitted,

/s/ Suzanne Keffer
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COUNSEL FOR MR. FOSTER

CERTIFICATE OF SERVICE

I, Suzanne Keffer, counsel for petitioner and a member of the Bar of this Court, certify that I mailed a copy of this application to Assistant Attorney General Steven Ake at the Office of the Attorney General, Concourse Center 4, 3507 E. Frontage Rd, Ste 200, Tampa, FL 33607 on April 16, 2018. I further certify that all parties required to be served have been served.

/s/ Suzanne Keffer
SUZANNE KEFFER
Assistant CCRC
Florida Bar No. 150177