

CAPITAL CASE

No. 17-A-_____

IN THE SUPREME COURT OF THE UNITED STATES

FARRIS GENNER MORRIS,

Petitioner-Applicant

vs.

TONY MAYS, Warden

Respondent

APPLICATION FOR EXTENSION OF TIME TO FILE PETITION FOR WRIT OF CERTIORARI

To The Honorable Elena Kagan, Associate Justice, and Circuit Justice For The United States Court Of Appeals For The Sixth Circuit: In this capital case, Applicant Farris Morris respectfully applies for a sixty (60) day extension of time, to and including August 6, 2018, within which to file a petition for writ of certiorari.

In support of this application, Farris Morris states:

1. On October 12, 2016, the United States District Court entered a final judgment dismissing Farris Morris' petition for writ of habeas corpus. *Morris v. Colson*, W.D.Tenn. No. 1:07-cv-01084, R. 76.
2. Farris Morris filed a motion to alter or amend the judgment, asserting, *inter alia*, that he has been improperly denied application of *Martinez v. Ryan*, 566

U.S. 1 (2012) to substantial, but procedurally defaulted, claims of ineffective assistance of trial counsel (R. 77), and he also filed a notice of appeal. R. 78.

3. The District Court denied the motion to alter or amend (R. 85), after which Morris filed an amended notice of appeal and application for certificate of appealability. R. 86, 87. On May 18, 2017, the District Court denied a certificate of appealability. R. 89.

4. On March 9, 2018, the United States Court of Appeals for the Sixth Circuit also denied a certificate of appealability. *Morris v. Mays*, No. 16-6661 (6th Cir. Mar. 9, 2018)(Order)(attached as Exhibit 1).

5. Farris Morris may seek certiorari from the Sixth Circuit's denial of a certificate of appealability (*Hohn v. United States*, 524 U.S. 236 (1998)), and he intends to do so.

6. Under United States Supreme Court Rule 13.1, Farris Morris currently has until June 7, 2018 within which to file a petition for writ of certiorari.

7. Undersigned counsel, however, will require additional time to prepare and present Mr. Morris' petition for writ of certiorari given his obligations in other capital cases. Currently, counsel is researching and preparing a petition for rehearing and rehearing *en banc* in the capital case of *Carruthers v. Mays*, 6th Cir. No. 14-5457, which is due May 31, 2018. Also, counsel had to prepare and file petitions for writ of certiorari and a petition for extraordinary writ in *Payne v. Tennessee*, U.S. No. 17-8543 (filed April 16, 2018), *Sample v. Tennessee*, U.S. No.

17-8567 (filed April 18, 2018), and *In Re Pervis Payne*, U.S. No. 17-8871 (filed April 30, 2018).

8. With a 60-day extension, Farris Morris' petition for writ of certiorari (which would assert, *inter alia*, his entitlement to application of *Martinez v. Ryan* to his case) would be due August 6, 2018.

9. Under the circumstances, Your Honor should grant a 60-day extension of time, as Your Honor has in any number of similar capital cases. *See e.g., Payne v. Tennessee*, U.S. No. 17A858 (Feb. 13, 2018)(Kagan, J.); *Sample v. Tennessee*, U.S. No. 17A857 (Feb. 12, 2018)(Kagan, J.); *Chalmers v. Tennessee*, U.S. No. 17A184 (Aug. 16, 2017)(Kagan, J.); *Sims v. State*, U.S. No. 16A37 (July 25, 2016)(Kagan, J.).

CONCLUSION

Accordingly, Your Honor should grant a 60-day extension, up to and including August 6, 2018, within which to file a petition for writ of certiorari.

Respectfully Submitted,

/s/ *Paul R. Bottei*
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CERTIFICATE OF SERVICE

I certify that a copy of this application was served upon counsel for Respondent, Jennifer Smith, P. O. Box 20207, Nashville, Tennessee 37202 this the 25th day of May, 2018.

/s/ Paul R. Bottei