

ORIGINAL

No. \_\_\_\_\_

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IN THE SUPREME COURT OF THE UNITED STATES

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DAVID E. MILLER,

*Applicant,*

v.

TONY MAYS, Warden,

*Respondent.*

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CERTIFICATE OF SERVICE

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I, Stephen M. Kissinger, do swear or declare that on the 31st day of May, 2018, as required by Supreme Court Rule 29, I have served the enclosed Application for Extension of Time to File Petition for Writ of Certiorari on each party to the above proceeding or that party's counsel, and on every other person required to be served by sending via overnight FEDEX prepaid delivery. The names and addresses of those served are as follows:

Jennifer L. Smith, Associate Solicitor General  
Tennessee Attorney General's Office  
301 6th Avenue North  
Nashville, TN 37243  
(615) 741-3487

I declare under penalty of perjury that the foregoing is true and correct.  
Executed on this the 31st day of May, 2018.



Stephen M. Kissinger  
Assistant Federal Community Defender  
*Counsel of Record for David E. Miller*

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DAVID E. MILLER,

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TONY MAYS, Warden,

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On Petition for a Writ of Certiorari  
to the United States Court of Appeals for the Sixth Circuit

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

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*Counsel for David E. Miller*

May 31, 2018

IN THE SUPREME COURT OF THE UNITED STATES

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DAVID E. MILLER,

*Applicant,*

v.

TONY MAYS, Warden,

*Respondent.*

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

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TO THE HONORABLE ELENA KAGAN, Associate Justice of the United States and Circuit Justice for the Sixth Circuit:

Pursuant to this Court's Rules 13.5, 22 and 30.3, Applicant, David E. Miller, a death-sentenced inmate from Tennessee, respectfully applies to this Honorable Court for a sixty-day extension of time, from June 12, 2018, up to and including Monday, August 13, 2018 (the actual due date is Saturday August 11, 2018), within which to file a petition for writ of certiorari to review the judgment of the United States Court of Appeals for the Sixth Circuit entered on January 9, 2018 (attached hereto as Appendix A). The Sixth Circuit denied Mr. Miller's petition for rehearing/rehearing *en banc* on March 14, 2018 (attached hereto as Appendix B).

Mr. Miller will invoke the jurisdiction of this Court under 28 U.S.C. § 1254(1) and Supreme Court Rule 10(a) and (c), seeking review of the Sixth Circuit's decision

(Appendix A). The petition is currently due on June 12, 2018. In accordance with Supreme Court Rule 13.5, this application is being filed at least ten days before the due date.

As good cause for extending the time to file a petition, undersigned counsel avers that he has been diligently working on Mr. Miller's petition but intervening circumstances have diverted counsel's time and attention to other pressing matters. Specifically, counsel has been assigned to the *Abu-ali Abdur'rahman et. al. vs. Tony Parker et. al.*, case, Docket Number 18-0183-III Davidson County - Chancery Court. This case is on an accelerated litigation schedule. Counsel has been required to travel extensively as well as prepare extensive, complex pleadings. Counsel has also been required to draft lengthy and factually complex discovery pleadings in capital §2255 proceedings in *Sanchez v. United States Of America*, Case 9:16-cv-80693-BB, United States District Court, Southern District of Florida.

Because this is a death penalty case, the stakes are substantial for Mr. Miller and sufficient time to prepare his petition is critical. An additional sixty days is necessary to allow undersigned counsel of record adequate time to prepare the petition and to best present the issues to this Court.

Accordingly, Mr. Miller respectfully requests that the time within which to file his petition for writ of certiorari be extended up to and including Monday, August 13, 2018.

Respectfully submitted,



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