

STATE OF TENNESSEE

Office of the Attorney General



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September 17, 2018

Office of the Clerk  
Supreme Court of the United States  
Washington, D.C. 20543  
Attn: Deputy Clerk Danny Bickel

**Re: David E. Miller v. Tony Mays, Warden, No. 18-5597**

Dear Mr. Bickel:

Please allow this letter to serve as the respondent's application pursuant to Sup. Ct. R. 30 for a **thirty (30) day extension** of time to file its brief in opposition to the petition for a writ of certiorari in this matter and a simultaneous request to excuse the untimeliness of this application. The respondent's brief in opposition was due **September 14, 2018**. Counsel for the State is currently involved in an expedited briefing and argument schedule in a case before the Tennessee Supreme Court addressing the constitutionality of Tennessee's lethal injection protocol and was unable to complete a response within the time allowed by rule. Counsel had calendared the deadline and intended to submit a timely request for extension. However, the press of the expedited briefing in the lethal injection appeal resulted in an inadvertent oversight of the filing deadline in this case. Counsel realized the error on September 17 and immediately prepared this application.

This is the Warden's first request for an extension of time. This is a capital case in which the Warden's response is mandatory. Justice Kagan previously granted petitioner an additional 60 days to file the petition for writ of certiorari on an unopposed motion. Respondent respectfully requests that the Court excuse the above-described oversight and allow respondent to file a brief in opposition on or before **October 15, 2018**, thirty days beyond the original filing deadline.

Sincerely,

  
JENNIFER L. SMITH  
Associate Solicitor General  
(615) 741-3487

cc: Stephen M. Kissinger