

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

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IN THE SUPREME COURT OF THE UNITED STATES  
October Term, 2018

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SCOTTY GARNELL MORROW,  
Petitioner,

v.

ERIC SELLERS, Warden,  
Georgia Diagnostic Prison,  
Respondent.

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APPLICATION FOR AN EXTENSION OF TIME  
TO FILE PETITION FOR WRIT OF CERTIORARI TO  
THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

Capital Case

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TO THE HONORABLE CLARENCE THOMAS, Associate Justice  
of the Supreme Court of the United States, and Circuit Justice for the  
United States Court of Appeals for the Eleventh Circuit:

Petitioner SCOTTY GARNELL MORROW, a Georgia death-sentenced prisoner acting by and through undersigned counsel and pursuant to 28 U.S.C. § 2101(c) and Supreme Court Rules 13.5 and 30.2, respectfully requests an extension of time of sixty (60) days to file his Petition for a Writ of *Certiorari* in this Court. Mr. Morrow seeks

review of the decision of the United States Court of Appeals for the Eleventh Circuit entered on March 27, 2018, *see* Attachment A, and for which his Petition for Rehearing *En Banc* was denied on May 22, 2018, *see* Attachment B. Mr. Morrow invokes the jurisdiction of this Court pursuant to 28 U.S.C. § 1254. His time to file a Petition for Writ of *Certiorari* in this Court elapses on August 20, 2018. Mr. Morrow makes this request more than ten (10) days before the date his petition would be due without an extension of time. This is his first request for an extension of time. In support of his request, Mr. Morrow shows the following as good cause:

Serious constitutional errors occurred during Mr. Morrow's capital trial. The state trial court that first heard Mr. Morrow's habeas claims concluded that these errors deprived Mr. Morrow of the effective representation that the Constitution guarantees all capital defendants and granted sentencing-phase relief. The Georgia Supreme Court's decision, reversing Mr. Morrow's grant of relief, is incompatible with the undisturbed findings of the trial court. The federal district court and court of appeals nevertheless affirmed. The failure to redress these significant constitutional errors cannot be squared with the state

habeas court's well-supported findings that trial counsel "neglected to conduct a competent investigation" and thereby "presented an incomplete and inaccurate picture" of Mr. Morrow. The Eleventh Circuit's rejection of Mr. Morrow's claims is in direct conflict with precedent from this Court and other circuits.

A Petition for Writ of *Certiorari* is essential here. Counsel therefore request an extension of time to seek review in this Court so that counsel can properly and adequately present the substantial constitutional issues that give rise to Mr. Morrow's Petition and effectively represent Mr. Morrow. Counsel also need additional time to consult with experienced Supreme Court practitioners in the preparation of the Petition.


In the time since Mr. Morrow's petition for rehearing *en banc* was denied, undersigned counsel, S. Jill Benton, has been actively engaged representing other clients at the Federal Defender Program. In addition to a full case load, including three capital cases currently pending before the Eleventh Circuit, Ms. Benton serves as the Supervising Attorney for the capital habeas unit. This Court's recent decision in *Wilson v. Sellers*, No. 16-6855, 584 U.S. \_\_ (April 17, 2018)

resulted in the vacatur of numerous stays in federal habeas proceedings. The Eleventh Circuit has subsequently set merits briefing schedules in those cases stayed pending *Wilson*. Counsel is, therefore, currently supervising the representation of four capital clients with initial merits briefs due between now and the current deadline for the Petition for Writ of *Certiorari*. This has limited counsel's ability to prepare an effective petition by the current deadline. Counsel requires additional time to complete the Petition in this case.

Counsel Marc F. Holzapfel has represented Mr. Morrow *pro bono publico* since 2003. Mr. Morrow's case comprises Mr. Holzapfel's only experience with habeas corpus litigation and he will therefore rely upon collaboration with co-counsel at the Federal Defender Program to identify and properly plead the constitutional questions presented by Mr. Morrow's case. Moreover, Mr. Holzapfel recently accepted a new corporate in-house General Counsel position. The professional commitments associated with this transition have required and will require significant time and attention throughout the coming months. The requested extension will allow Mr. Holzapfel to continue to participate in representing Mr. Morrow before this Court.

WHEREFORE, Mr. Morrow respectfully requests that this Court grant him a sixty (60) day extension of time within which to file his Petition for Writ of *Certiorari*, until and including October 19, 2018.

Respectfully submitted, this 1st day of August, 2018.



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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the forgoing on counsel for the Respondent Warden Sellers by placing a copy of same in the United States Mail, First Class Postage pre-paid and addressed as follows:

Sabrina Graham, Esq.  
Senior Assistant Attorney General  
40 Capitol Square  
Atlanta, Georgia 30334

Dated this, the 1st day of August, 2018.

  
\_\_\_\_\_  
S. Jill Benton  
Georgia Bar No. 053659