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J. VINCENT APRILE II

December 4, 2018

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The Honorable Scott S. Harris
Clerk of the Court
Supreme Court of the United States
1 First Street, N. E.
Washington, DC
20543-0001

**RE: Johnathan Hall, Petitioner v. William O. Ayers, Respondent, Case No. 18-656;
Application, Pursuant to Supreme Court Rules 15.3 and 30.4, to Extend the Time to
File a Brief in Opposition to the Petition for a Writ of Certiorari**

Mr. Harris:

The respondent, William O. Ayers, by counsel, seeks, pursuant to Supreme Court Rules 15.3 and 30.4, an extension of forty-five (45) days from Friday, December 21, 2018, to and including Monday, February 4, 2019, in which to file his brief in opposition to the petition for writ of certiorari to review the decision of the United States Court of Appeals granting him habeas corpus relief from his state court conviction and sentence.

On August 22, 2018 the Sixth Circuit Court of Appeals rendered its decision in respondent Ayers' appeal of the denial of his federal habeas corpus action, reversing the district court and granting Ayers habeas corpus relief. *Ayers v. Hall*, 900 F.3d 829 (6th Cir. 2018). On November 14, 2018, Johnathan Hall filed his petition for a writ of certiorari, which was placed on this Court's docket on November 21, 2018. Mr. Ayers' brief in opposition is due to be filed on or before Friday, December 21, 2018.

Undersigned counsel Aprile has represented respondent Ayers, without co-counsel, throughout this federal action.

Due to the press of his caseload, Aprile is unable to complete Mr. Ayers' brief in opposition in time to meet the December 21, 2018 filing deadline. Most significantly, Aprile, as a CJA appointee, represents a Kentucky death row inmate in the United States Court of Appeals for the Sixth Circuit Court on his appeal of the denial of his federal habeas corpus petition challenging his convictions and death sentences. Aprile has represented this client since 2003 in this federal action. In that appeal, Aprile has a filing deadline for the opening brief of Tuesday, January 8, 2018. A Certificate of Appealability was issued on fifteen (15) issues in that appeal. The completion of that brief for

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appellant on or before January 8, 2019 will significantly limit counsel's ability to complete Mr. Ayers' brief in opposition to the petition for certiorari by the December 21, 2018 filing deadline.

Undersigned counsel's ability to file the brief in opposition is complicated by the health problems Aprile suffered during this year. In early April 2018 Aprile became ill and after remaining at home on doctors' orders for some three weeks was hospitalized, initially in the ICU, from April 23 to May 2, 2018. During this ten-day hospital stay he was attended to by thirteen or so doctors practicing different specialties. Aprile was then required to recover at home when on June 15 he was again unexpectedly hospitalized until June 19. As part of his recovery, Aprile did not return to his office until late September, although he did some legal work from his home during his lengthy recovery period. As a result, many of Aprile's professional obligations had to be continued or extended and he is still working to catch up on a number of pending matters. For example, Aprile has a civil action that must be filed before the present filing date of December 21, 2018 in this matter as the statute of limitations will expire this month. All of this contributes to the necessity of this request for a forty-five day extension to file Ayers' brief in opposition.

Mr. Ayers recognizes the importance of filing a brief in opposition, which includes ensuring that all matters that could be waived if not raised in such an opposition brief are preserved. Supreme Court Rule 15.2.

For the above reasons, undersigned counsel is requesting a forty-five day extension. Of course, undersigned counsel will endeavor to complete and file the brief in opposition as soon as possible taking into account his responsibilities to his other clients, both retained and appointed.

Mr. Ayers is not confined on the state charge as his three year sentence of confinement was probated with the exception of ninety days confinement in the local detention facility.

This application is being made by letter upon the specific advice and direction of the Office of the Clerk of this Court.

This application is being mailed on Tuesday, December 4, 2018, through the United States Postal Service by first-class mail, postage prepaid, and also filed electronically on this Court's electronic filing system.

A copy of this application letter is being mailed on Tuesday, December 4, 2018, through the United States Postal Service by first-class mail, postage prepaid, to Hon. Dorislee Gilbert, Assistant Commonwealth's Attorney, Office of the Commonwealth's Attorney, 514 West Liberty Street, Louisville, Kentucky 40202.

Undersigned counsel Aprile is a member of the bar of this Court and has been for some forty-five (45) years, having been admitted on January 22, 1973.

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This application is being filed at least ten (10) days before the date the brief in opposition is due, Friday, December 21, 2018.

For the above reasons, respondent Ayers, by counsel, seeks, pursuant to Supreme Court Rules 15.3 and 30.4, an extension of forty-five (45) days from December 21, 2018, to and including February 4, 2019, in which to file respondent Ayers' brief in opposition to the petition for writ of certiorari to review the decision of the Sixth Circuit Court of Appeals in his appeal of the district court's denial of his motion for federal habeas corpus relief from his state court conviction and sentence.

Respectfully submitted,



J. Vincent Aprile II
Attorney At Law

Member, Bar of the
Supreme Court of the United States

Counsel for William O. Ayers
Respondent

cc: Dorislee Gilbert
Assistant Commonwealth's Attorney
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