

**CAPITAL CASE**

No. 18-A-\_\_\_\_\_

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IN THE  
SUPREME COURT OF THE UNITED STATES

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**FARRIS GENNER MORRIS,**

Petitioner-Applicant

vs.

**STATE OF TENNESSEE**

Respondent

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

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*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 November 4, 2018, within which to file a petition for writ of certiorari.

In support of this application, Farris Morris states:

1. This is a capital post-conviction proceeding in which Petitioner has sought relief under *Foster v. Chatman*, 578 U.S. \_\_\_\_ (2016) on a claim that the prosecution's peremptory strike of an African-American juror was motivated in substantial part by discriminatory intent. *Id.* at \_\_\_\_ (slip op. at 23).

2. On February 1, 2018, the Tennessee Court of Criminal Appeals denied

Farris Morris' motion to reopen his post-conviction petition. *Morris v. State*, No. W2017-01700-CCA-R28-PD (Tenn. Crim.App. Feb. 1, 2018)(Exhibit 1).

3. Morris sought permission to appeal in the Tennessee Supreme Court, seeking retroactive application of *Foster*, but on June 7, 2018, the Tennessee Supreme Court denied permission to appeal. *Morris v. State*, No. W2017-01700-SC-R11-PD (Tenn. 2018)(Exhibit 2).

4. Farris Morris presently has until September 5, 2018 to file a petition for writ of certiorari. *See* U.S.S.Ct.R. 13.1.

5. Under Rule 13.5, this Court may extend the time for seeking certiorari for up to sixty (60) additional days. Your Honor should do so under the circumstances.

6. The Tennessee Court of Criminal Appeals has refused to apply *Foster* retroactively under the circumstances, even though *Foster* was a case on collateral review in which this Court retroactively applied the “motivated in substantial part by discriminatory intent” test to grant relief.

7. On its facts, *Foster* itself proves that this test must be applied retroactively to Farris Morris' case – especially where *Foster*'s case was thirty years old, and Morris' case is significantly younger.

8. Farris Morris' petition for writ of certiorari, therefore, will present the significant question whether *Foster v. Chatman*, 578 U.S. \_\_\_ (2016) applies retroactively to cases on collateral review.

9. In this capital case, Your Honor should grant Farris Morris a sixty (60)

day extension of time, to and including November 4, 2018, within which to file a petition for writ of certiorari. Petitioner requires this additional time where undersigned counsel has had to attend to various responsibilities in other capital cases, including, for example, an oral argument in *Hines v. Mays*, 6th Cir. No. 15-5384 (argument July 25, 2018), a petition for writ of certiorari in *Morris v. Mays*, U.S. No. 18-5505 (filed August 6, 2018), and an amended motion for relief from judgment in *Zagorski v. Mays*, M.D.Tenn. No. 99-1193 (filed August 10, 2018).

10. Your Honor has previously granted similar extensions of time in capital cases in Tennessee. *See e.g.*, *Morris v. Mays*, U.S. No. 17A1321 (May 25, 2018) (Kagan, J.)(granting 60-day extension); *Sample v. Tennessee*, U.S. No. 17A857 (Feb. 12, 2018)(Kagan, J.)(granting 60-day extension).

#### CONCLUSION

Accordingly, Your Honor should grant a 60-day extension, up to and including November 4, 2018, within which to file a petition for writ of certiorari.

Respectfully Submitted,

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*/s/ Paul R. Bottei*

#### CERTIFICATE OF SERVICE

I certify that a copy of this application was served upon counsel for Respondent, Sophia S. Lee, P. O. Box 20207, Nashville, Tennessee 37202 this the 22nd day of August, 2018.

*/s/ Paul R. Bottei*