

DOCKET NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 2018

JAMES MILTON DAILEY,

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

**APPLICATION FOR SIXTY (60) DAY EXTENSION OF TIME IN WHICH TO FILE
PETITION FOR WRIT OF CERTIORARI TO THE FLORIDA SUPREME COURT**

COMES NOW THE PETITIONER, JAMES MILTON DAILEY, by and through undersigned counsel, and pursuant to Supreme Court Rule 13-5, respectfully requests an extension of time of sixty (60) days within which to file his Petition for Writ of Certiorari to the Florida Supreme Court. In support of his request, Petitioner, through counsel, states as follows:

1. Petitioner is an indigent death-sentenced inmate in the custody of the State of Florida. Undersigned counsel represents Petitioner in his state and federal collateral appeals.
2. This case involves an appeal from the decision of the Florida Supreme Court denying Mr. Dailey's Successive Motion for Post-Conviction Relief pursuant to Florida Rule of Criminal Procedure 3.851.

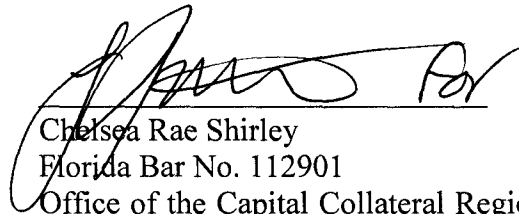
3. This Court's jurisdiction rests on 28 U.S.C. §1257.
4. Petitioner was convicted of murder and sentenced to death in the Circuit Court of the Sixth Judicial Circuit in and for Pinellas County, Florida.
5. Mr. Dailey currently has a separate appeal pending before the Florida Supreme Court based on actual innocence. *See Dailey v. State*, SC18-557. The case was submitted to the Florida Supreme Court, without oral argument, on July 24, 2018.
6. On June 26, 2018, the Florida Supreme Court denied Mr. Dailey's appeal of the denial of his successive motion for post-conviction relief. (Attachment A). No motion for rehearing was filed. Petitioner's time to petition for certiorari in this Court expires on September 24, 2018.
7. Petitioner shows the following good cause in support of this request.
8. On June 26, 2018, the Florida Supreme Court denied Mr. Dailey's appeal to grant him *Hurst*¹ relief. Subsequently, Mr. Dailey filed an appeal based on newly discovered evidence of actual innocence. Should the Florida Supreme Court grant Mr. Dailey's appeal, he would be released from custody, or at a minimum, granted an entirely new trial. Such a decision would render the prior Florida Supreme Court opinion denying him *Hurst* relief moot, and, in order to conserve judicial and economic resources, would justify granting this application for a sixty day extension of time.
9. Further, Petitioner's counsel, who is employed by a state agency, has had a burdensome caseload since the final disposition of Petitioner's case in the Florida Supreme Court. Within the last 90 days, counsel has, *inter alia*, conducted a contested public records

¹ *Hurst v. Florida*, 136 S. Ct. 606 (2016) and *Hurst v. State*, 202 So. 3d 40 (Fla. 2016).

hearing with multiple agencies on an initial post-conviction motion, and has prepared briefing and motions in the Florida Supreme Court on multiple cases on appeal from denials of initial post-conviction motions. Lastly, counsel has traveled extensively for work related business during the last thirty days, and has at least two additional work related trips coming up within the next thirty days. As a result of all of the above, counsel has not been able to prepare a proper Petition for a Writ of Certiorari in Petitioner's case.

10. Counsel for the Respondent has no position on this Motion.

WHEREFORE, Petitioner, through his undersigned counsel, respectfully requests an extension of time of sixty (60) days within which to file the Petition for Writ of Certiorari to the Florida Supreme Court in the above-styled case.



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