

No.\_\_\_\_

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**IN THE  
SUPREME COURT OF THE UNITED STATES**

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BRANDON WASHINGTON,

*Applicant,*

v.

STATE OF ALABAMA,

*Respondent.*

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**APPLICATION TO THE HONORABLE CLARENCE THOMAS FOR AN  
EXTENSION OF TIME WITHIN WHICH TO FILE A PETITION FOR  
CERTIORARI TO THE ALABAMA COURT OF CRIMINAL APPEALS**

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Pursuant to Supreme Court Rule 13(5), Applicant Brandon Washington hereby moves for an extension of time of 60 days, to and including December 10, 2018, for the filing of a petition for a writ of certiorari. Unless an extension is granted, the deadline for filing the petition will be October 11, 2018.

In support of this request, Applicant states as follows:

1. The Supreme Court of Alabama denied Mr. Washington's petition for a writ of certiorari on July 13, 2018 (Exhibit 1), leaving in place the last-reasoned decision of the Alabama Court of Criminal Appeals (Exhibit 2). This Court has jurisdiction under 28 U.S.C. § 1257.

2. This case presents an important question of federal law: whether the Sixth Amendment, as clearly established by this Court, demands that the prejudice inquiry of an ineffective-assistance-of-counsel claim “be a cumulative one as to the effect of all of the failures of counsel that meet the performance deficiency requirement.” *Evans v. Sec’y, Fla. Dep’t of Corr.*, 699 F.3d 1249, 1269 (11th Cir. 2012); *see also Williams v. Taylor*, 529 U.S. 362, 397 (2000) (holding that the court must “evaluate the totality of the available” evidence); *Strickland v. Washington*, 466 U.S. 668, 695 (1984) (“[A] court hearing an ineffectiveness claim must consider the totality of the evidence before the judge or jury.”).

3. The Alabama Court of Criminal Appeals, in the last reasoned decision at issue here, declined to apply that clearly established rule, concluding that “states and federal courts are not in agreement as to whether the ‘cumulative effect’ analysis applies to *Strickland* claims.” (Exhibit 2 at 26).

4. Although Mr. Washington has filed a petition for writ of habeas corpus in the Northern District of Alabama challenging that conclusion, he is also entitled to seek alternative relief here.

5. An extension of time to file a petition for a writ of certiorari is needed so that Mr. Washington can secure new counsel.

6. Perkins Coie LLP’s pro bono representation of Mr. Washington was limited to Mr. Washington’s petition in Alabama state court under Rule 32 of the Alabama Rules of Criminal Procedure and to his related state-court appeals.

7. Given the limited time available for Mr. Washington to seek federal relief, Perkins Coie LLP has continued its representation of Mr. Washington in federal court while he seeks new counsel


8. The U.S. District Court for the Northern District of Alabama has granted Mr. Washington a stay of his federal proceedings while he secures new counsel.

9. Perkins Coie LLP has identified well-qualified counsel who is interested in representing Mr. Washington but who has recently suffered a family tragedy that will prevent her from preparing a petition for certiorari by October 11, 2018. Perkins Coie LLP has also identified other potential counsel who may be willing to represent Mr. Washington.

10. There is good cause for an extension because Mr. Washington is actively searching for new counsel and new counsel will need adequate time to research the issues in this case and draft the petition for certiorari.

Dated: September 27, 2018

Respectfully Submitted,



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ABHA KHANNA

*Counsel of Record*

PERKINS COIE LLP

1201 Third Avenue

Suite 4900

Seattle, WA 98101

(206) 359-8000

akhanna@perkinscoie.com

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