

THIS IS A CAPITAL CASE
IN THE UNITED STATES SUPREME COURT

No. _____

JOHN L. LOTTER,
Petitioner,

v.

STATE OF NEBRASKA,
Respondent.

Application for Extension of Time to File
Petition for a Writ of Certiorari

To the Honorable Justice Neil M. Gorsuch, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Eighth Circuit, including Nebraska:

1. In this capital case, Petitioner John L. Lotter is respectfully requesting a 30-day extension of time to file a petition for writ of certiorari in this Court up to and including March 11, 2019.

2. The decision of the Nebraska Supreme Court issued September 28, 2018, and that Court's order denying Mr. Lotter's timely motion for rehearing on November 9, 2018, is attached hereto as Addendum A.

3. Mr. Lotter intends to file a petition for writ of certiorari requesting that this Court resolve whether the capital sentencing scheme in Nebraska, which stands

alone as the only active death penalty state that permits a three-judge panel to impose a death sentence, violates the Sixth and Fourteenth Amendments to the United States Constitution in light of *Hurst v. Florida*, 136 S. Ct. 616 (2016) and violates the evolving standards of decency under the Eighth Amendment.

4. Absent an extension from this Court, Mr. Lotter's Petition will be due February 7, 2019. For the reasons that follow, counsel for Mr. Lotter is seeking a 30-day-extension of that deadline.

5. Undersigned counsel is seeking an extension because counsel's other professional duties prevent them from drafting an adequate certiorari petition by February 7, 2019. Ms. Sutton has pressing obligations related to the capital pre-trial proceedings of *State of Idaho v. Brad Scott Compher*, Bannock County Case No. CR-2014-12727, including preparing for competency proceedings that have already been initiated. Additionally, Ms. Sutton has a second pre-trial death penalty case, *Commonwealth of Pennsylvania v. Harold Murray*, Montgomery County Case No. CP-46-CR-5181-2005, as well as four non-capital sentencing submissions due in February and March.

6. Ms. Woodman has been occupied with a death penalty case in Colorado, *People v. Garcia-Bravo*, El Paso County Case No. 17CR1736, which is currently pending trial. In addition to other pre-trial hearings in the case, Ms. Woodman has had to prepare for an evidentiary hearing scheduled for January 28-30, 2019, and is in the process of also preparing numerous pre-trial motions and responses that are due February 8, 2019. Ms. Woodman has also been occupied with ongoing claim

development as co-counsel in a Kansas state postconviction death penalty case, *Robinson v. State*, Johnson County Case No. 16CV6756.

7. Because the Petitioner is under sentence of death and is incarcerated in a maximum security facility in Nebraska, an extension here will not prejudice the Respondent.

WHEREFORE, Mr. Lotter respectfully requests that this Application be granted and that the Court allow him until March 11, 2019 to file his certiorari petition in this important matter.

Respectfully submitted,

/s/_Jessica Sutton _____
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