

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

KELLY FOUST,

Petitioner,

v.

THE STATE OF OHIO

Respondent.

On Petition for Writ of Certiorari to the Supreme Court of Ohio

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

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Counsel of Record

To the Honorable Justice Sonia Sotomayor, Associate Justice of the Supreme Court and Circuit Justice for the United States Court of Appeals for the Sixth Circuit.

Petitioner Kelly Foust, intervening respondent in the Supreme Court of Ohio, respectfully asks for an extension of time in which to file a petition for writ of certiorari from that court's decision in *State ex rel. O'Malley v. Collier-Williams, Judge*, 153 Ohio St.3d 553, 2018-Ohio-3154, 108 N.E.3d 1082 (2018). The Petition is currently due on January 8, 2019. Petitioner requests a 60-day extension, until March 9, 2019.

The Supreme Court of Ohio, issued its ruling on August 9, 2018 and denied Mr. Foust's motion for reconsideration on October 10, 2018. Copies of both the decision and the entry denying reconsideration are attached.

As Mr. Foust argued in the Ohio courts, this Court's decision in *Hurst v. Florida*, 577 U.S. ___, 136 S.Ct. 636 (2016), shows that provisions of Ohio's death penalty statutes and implementing procedures violate the Sixth Amendment right to trial by jury.

Good cause exists for this requested extension. Counsel is engaged in the litigation of numerous other matters in the State Courts of Ohio as well at the Federal District Court that require this request for additional time to effectively pursue the certiorari petition in this case.

For these reasons, Kelly Foust requests a 60-day extension of time in which to file his petition for a writ of certiorari.

Respectfully submitted,

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