

No. 18A-_____

IN THE
SUPREME COURT OF THE UNITED STATES

LEIF HALVORSEN,

Petitioner

v.

DEEDRA HART, Warden

Respondent

APPLICATION TO THE HONORABLE JUSTICE SONIA SOTOMAYOR
FOR EXTENSION OF TIME TO FILE
A PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

CAPITAL CASE

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

Petitioner, Leif Halvorsen, by undersigned counsel, pursuant to Supreme Court Rules 13.5 and 30.2, respectfully requests that the Court grant him a sixty (60) day extension, to Monday, March 11, 2019, to file a Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit, which has already stayed the mandate pending the filing of a petition for a writ of certiorari.

On August 20, 2018, the Sixth Circuit affirmed the denial of federal habeas relief. A copy of the opinion is attached. A timely petition for rehearing was denied on

October 12, 2018. A petition for a writ of certiorari is due on January 10, 2019.

This Court has jurisdiction under 28 U.S.C. §1257.

This petition for a writ of certiorari will address whether a motion to amend a habeas petition in light of the intervening decision of *Martinez v. Ryan*, 132 S.Ct. 1309 (2012), is timely when filed only four days after *Martinez* was decided and when neither the Warden demonstrates, nor the court found, any prejudice from the timing of the amendment. It will likely also address whether the Sixth Circuit disregarded Supreme Court precedent by holding that it could not grant relief based on the prosecutor's closing argument usage of the names of notorious other killers and send a message to the community arguments because the Supreme Court has not expressly stated those types of comments were improper and thus 28 U.S.C. §2254(d) prohibits granting habeas relief.

Supreme Court Rule 13.5 permits a Justice of this Court "for good cause" to extend the time to file a petition for a writ of certiorari for a period not exceeding sixty (60) days, as long as the application is received by the Clerk at least ten (10) days before the petition is due. Rule 30.2. This request for an extension of time has been filed in advance of that, and, as explained below, good cause exists.

Undersigned counsel of record, David M. Barron, represents fourteen death-sentenced inmates, some of whom have multiple legal actions pending in state and federal court. During the past two months, he has filed numerous pleadings in those cases, including a Petition for a Writ of Certiorari that is currently pending. *Epperson v. Kentucky*, No. 18-6701. In addition, he has opening briefs on appeal in capital

habeas cases due in the Sixth Circuit on both January 8, 2019, and January 10, 2019. And, he is scheduled to appear for jury duty on January 9, 2018. As that is the first day of jury duty, he is currently unaware for how long he will be performing his civic duty of jury service, which could last as little as one day or as long as weeks. These briefing deadlines, and other commitments in cases in the intervening days, mean counsel of record cannot adequately prepare a petition for a writ of certiorari on behalf of Halvorsen by January 10, 2019. Indeed, he will not be able to dedicate substantial time to it until after January 10, 2019, and possibly weeks afterwards in light of jury duty. For the reasons expressed above, Petitioner Halvorsen respectfully requests that the Court grant him a sixty day extension to file a petition for a writ of certiorari up to and including March 11, 2019.

Respectfully submitted,

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