

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

TREMANE WOOD, Applicant,

vs.

MIKE CARPENTER, Interim Warden, Oklahoma State Penitentiary, Respondent.

****CAPITAL CASE****

**APPLICATION FOR EXTENSION OF TIME TO FILE
PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT**

JON M. SANDS
Federal Public Defender
District of Arizona

Jessica L. Felker (Illinois Bar No. 6296357)
Counsel of Record
Amanda C. Bass (Alabama Bar No. 1008H16R)
Assistant Federal Public Defenders
850 West Adams Street, Suite 201
Phoenix, Arizona 85007
(602) 382-2816 (voice)
(602) 889-3960 (facsimile)
Jessica_Felker@fd.org
Amanda_Bass@fd.org

Counsel for Applicant Wood

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

Pursuant to Supreme Court Rules 13.5, 30.2, and 30.3, Applicant Tremane Wood requests a 58-day extension of time in which to file his Petition for Writ of Certiorari. The current due date is January 30, 2019, and this Application is being filed more than ten days in advance of this date. The requested extension would make the Petition due on March 29, 2019.

In his Petition, Mr. Wood will seek review of *Wood v. Carpenter*, 902 F.3d 1279 (10th Cir. 2018) (*Wood II*) (Appendix A), a revised opinion issued on November 1, 2018 by the U.S. Court of Appeals for the Tenth Circuit. In that opinion, the Tenth Circuit affirmed the denial of Mr. Wood's request for habeas relief by the U.S. District Court for the Western District of Oklahoma. *Wood II*, 907 F.3d at 1285.

Wood II revised the Tenth Circuit's earlier opinion, *Wood v. Carpenter*, 899 F.3d 867 (10th Cir. 2018) (*Wood I*) (Appendix B), which was issued with a judgment on August 9, 2018. Mr. Wood timely applied for rehearing of *Wood I*, and the Tenth Circuit granted in part Mr. Wood's petition for rehearing, thereby issuing the revised opinion. *Wood II*, 907 F.3d at 1285. This Court has jurisdiction to review Wood's request for a writ of certiorari under 28 U.S.C. § 1254.

Reasons for the Requested Extension of Time

The State of Oklahoma seeks to execute Mr. Wood notwithstanding the fact that it afforded him—as an indigent capital defendant—a trial attorney who the

Tenth Circuit recognized failed to provide Mr. Wood with even “a textbook mitigation defense.” *Wood II*, 907 F.3d at 1292. The Tenth Circuit nonetheless refused to properly consider the merits of Mr. Wood’s serious constitutional claims, first by misapplying AEDPA—in particular, this Court’s decisions in *Cullen v. Pinholster*, 563 U.S. 170 (2011), and *Wilson v. Sellers*, 238 S. Ct. 1188 (2018)—and second, by contravening this Court’s decisions in *Strickland v. Washington*, 466 U.S. 668 (1984), *Wiggins v. Smith*, 539 U.S. 510 (2003), *Rompilla v. Beard*, 545 U.S. 374 (2005), and *Porter v. McCollum*, 558 U.S. 30 (2009). As such, Mr. Wood’s case raises important federal questions regarding the scope of a Court of Appeals’ obligation to follow, and to properly apply, this Court’s precedent. *See* Sup. Ct. R. 10 (listing among the “compelling reasons” for granting a petition for writ of certiorari where “a United States court of appeals has decided an important question of federal law . . . in a way that conflicts with relevant decisions of this Court”).

To date, undersigned counsel has been unable to afford Mr. Wood’s Petition for Writ of Certiorari the considerable attention that it requires. Since the Tenth Circuit affirmed the district court’s denial of habeas relief in a revised opinion on November 1, 2018, counsel for Mr. Wood have had considerable obligations and commitments. Counsel of record, Jessica Felker has a client, W. Keith Henness, who is scheduled to be executed by the State of Ohio on February 13, 2019. In addition to traveling to Ohio for six days in December and at least one full workweek in January for Mr. Henness’s clemency proceedings, Ms. Felker is also involved in preparing Mr.

Hennessey's clemency application, due January 3, 2019. In June 2018, Ms. Felker also became lead counsel for Cleveland Jackson, an Ohio death-row prisoner who is scheduled to be executed on May 29, 2019. Because of the failures of Mr. Jackson's prior counsel, Ms. Felker has considerable preparation to undertake before representing Mr. Jackson in his clemency proceedings in April 2019. Finally, Ms. Felker is lead counsel for Charles Ellison, an Arizona death-row prisoner, whose reply in support of his petition for a writ of habeas corpus is due in the U.S. District Court for the District of Arizona on January 25, 2019.

Amanda Bass, meanwhile, will be drafting a Petition for Writ of Certiorari to this Court due on January 28, 2019, in the case of her Oklahoma death-row client Julius Darius Jones. Ms. Bass is also co-counsel for Danny Lee Jones, an Arizona death-row prisoner, for whom an Amended Opening Brief in the U.S. Court of Appeals for the Ninth Circuit is presently due on February 1, 2019.

As a result of the foregoing, neither Ms. Felker nor Ms. Bass will be able to devote the time that adequately preparing Mr. Wood's Petition for Writ of Certiorari requires.

Conclusion

For the foregoing reasons, Mr. Wood respectfully requests an extension of time to file his Petition for Writ of Certiorari for 58 days, up to and including March 29, 2019.

Respectfully submitted this 28th day of December, 2018.

JON M. SANDS
Federal Public Defender
District of Arizona

Jessica L. Felker
Counsel of Record
Amanda C. Bass
Assistant Federal Public Defenders
850 West Adams Street, Suite 201
Phoenix, Arizona 85007
(602) 382-2816 (voice)
(602) 889-3960 (facsimile)
Jessica_Felker@fd.org
Amanda_Bass@fd.org

Counsel for Applicant Wood

/s Jessica L. Felker
Counsel of Record