

OCTOBER TERM 2018

IN THE
SUPREME COURT OF THE UNITED STATES

DEMETRIUS FRAZIER,
Petitioner,

v.

ALABAMA,
Respondent

On Petition for a Writ of Certiorari
to the Alabama Supreme Court

APPLICATION TO THE HONORABLE JUSTICE CLARENCE THOMAS
FOR EXTENSION OF TIME TO FILE A PETITION
FOR A WRIT OF CERTIORARI TO THE
ALABAMA SUPREME COURT
* * * * *

To the Honorable Justice Clarence Thomas, Associate Justice of the Supreme Court of the United States and Circuit Justice for the United States Court of Appeals for the Eleventh Circuit:

Petitioner, Mr. Demetrius Frazier, by undersigned counsel, pursuant to Supreme Court Rules 13.5 and 30.2, respectfully requests that this Court grant him a forty-five (45) day extension within which to file a Petition for a Writ of Certiorari to the Alabama Supreme Court. The Federal Defender's Office will be representing

Mr. Frazier and was appointed in federal court on a pending habeas corpus petition from Mr. Frazier's state court conviction and sentence.¹

The Alabama Supreme Court denied discretionary review on November 16, 2018² rendering the petition for writ of certiorari to this Court due on or before February 14, 2019. This Court has jurisdiction pursuant to 28 U.S.C. §1257(a).

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. The application must be received by the Clerk at least ten (10) days before the petition is due, except in extraordinary circumstances.³ This request for an extension of time is being filed through the Court's electronic filing system sixteen (16) days before the petition is due.

Undersigned counsel believes that there is good cause to justify the requested extension of time. Undersigned counsel currently represents a number of Alabama inmates under a sentence of death. These clients have cases pending in the Eleventh Circuit and the United States District Courts for the Middle District of Alabama, Northern District of Alabama, and Southern District of Alabama. Counsel currently has pleading deadlines on February 6, 2019, February 14, 2019, February 22, 2019, and March 15, 2019. Moreover, a client of one undersigned counsel has an execution date set for February 7, 2019. Due to the convergence and proximity of

¹ See Exhibit A – Appointment of Counsel in *Frazier v. Dunn*, Northern District of Alabama 2:18-CV-01899.

² See Exhibit B – Alabama Supreme Court Order Denying Review.

³ Rule 30.2.

the filing deadlines in multiple cases, undersigned counsel needs additional time to research and prepare a petition for a writ of certiorari in this case.

Petitioner respectfully requests that an order be entered extending his time to petition for certiorari by forty-five (45) days, up to and including March 31, 2019.

Respectfully submitted,

Demetrius Frazier

By his attorneys:

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CERTIFICATE OF SERVICE

I, Natalie Olmstead, a member of the Bar of this Court, hereby certify that on January 29, 2019, this pleading was filed with the Court through its electronic filing system and served on previous counsel for the State of Alabama via U.S. mail:

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State of Alabama
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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

DEMETRIUS FRAZIER,

Petitioner,

v.

**JEFFERSON S. DUNN,
COMMISSIONER OF THE ALABAMA
DEPARTMENT OF CORRECTIONS,**

Respondent.

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Case No.: 2:18-cv-01899-RDP


ORDER

This case is before the court on Petitioner’s Motion to Proceed *In Forma Pauperis* (Doc. # 2) and Motion for Appointment of Counsel (Doc. # 3).

The court finds that Petitioner is indigent, and the Motion to Proceed *In Forma Pauperis* (Doc. # 2) is therefore **GRANTED**. The Clerk is **DIRECTED** to file this action without prepayment of a fee.

Petitioner’s Motion for Appointment of Counsel (Doc. # 3) is also **GRANTED** pursuant to 18 U.S.C. § 3599(a)(2). The court therefore **APPOINTS** John A. Palombi and Natalie C.R. Olmstead of the Federal Defenders for the Middle District of Alabama to represent Petitioner in this matter.

DONE and ORDERED this January 7, 2019.



R. DAVID PROCTOR
UNITED STATES DISTRICT JUDGE

IN THE SUPREME COURT OF ALABAMA



November 16, 2018

1171020

Ex parte Demetrius Terrence Frazier. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: Demetrius Terrence Frazier v. State of Alabama) (Jefferson Circuit Court: CC-95-2606.61; Criminal Appeals : CR-17-0372).

CERTIFICATE OF JUDGMENT

WHEREAS, the petition for writ of certiorari in the above referenced cause has been duly submitted and considered by the Supreme Court of Alabama and the judgment indicated below was entered in this cause on November 16, 2018:

Writ Denied. No Opinion. Shaw, J. - Stuart, C.J., and Bolin, Parker, Main, Wise, Bryan, Sellers, and Mendheim, JJ., concur.

NOW, THEREFORE, pursuant to Rule 41, Ala. R. App. P., IT IS HEREBY ORDERED that this Court's judgment in this cause is certified on this date. IT IS FURTHER ORDERED that, unless otherwise ordered by this Court or agreed upon by the parties, the costs of this cause are hereby taxed as provided by Rule 35, Ala. R. App. P.

I, Julia J. Weller, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true, and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 16th day of November, 2018.

A handwritten signature in cursive script that reads "Julia Jordan Weller".

Clerk, Supreme Court of Alabama