

No.

OCTOBER TERM, 2019

IN THE SUPREME COURT OF THE UNITED STATES

CHRISTOPHER ANTHONY JONES, Petitioner,

v.

BRIAN WILLIAMS, Sr., Warden, Respondent.

*On Petition for Writ of Certiorari to the
Supreme Court of the State of Nevada*

**Petitioner's Application to Extend Time to File
Petition for Writ of Certiorari**

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To the Honorable Elena Kagan, as Circuit Justice for the United States Court of Appeals for the Ninth Circuit:

Petitioner Christopher Anthony Jones respectfully requests that the time to file a Petition for Writ of Certiorari in this matter be extended for forty-three days, to and including, May 30, 2019. The Nevada Supreme Court issued an order affirming the denial of post-conviction relief January 17, 2019. App. A. Petitioner's original due date for filing a Petition for Writ of Certiorari Petitioner is April 17, 2019. Petitioner is filing this Application at least ten days before that date. *See S. Ct. R. 13.5.* This Court has jurisdiction under 28 U.S.C. § 1257(a).

BACKGROUND

Mr. Jones was convicted of first-degree murder and sentenced to life with the possibility of parole in the Eighth Judicial District Court in Las Vegas, Nevada in 1996. The instant appeal comes to this Court from the denial of Mr. Jones' state petition for post-conviction relief. App. A.

REASONS FOR GRANTING THE EXTENSION

The time for filing a Petition for Certiorari should be extended for forty-three days for the following reasons:

1. T. Kenneth Lee, who is counsel of record, has been unable to complete the Petition for Writ of Certiorari, despite his diligent efforts to do so, due to his extensive caseload and numerous deadlines in other cases that became due in the last ninety days. For example: an Opening Brief filed on January 7, 2019, in *Mayo v. State of Nevada, et al.*, Ninth Circuit case number 18-16081; a Second Amended Petition for Writ of Habeas Corpus filed on January 25, 2019, in *Thomson v. Williams*, district court case number 2:17-cv-02932-RFB-GWF; Exhibit Redactions filed on February 4, 2019, in *Rueda-Denvers v. Baker*, district court case number 3:13-cv-00309-MMD-WGC; assisting co-counsel who was preparing for Oral Argument held on February 8, 2019, in *Mosby v. Baker*, Ninth Circuit case number 17-16565; a Reply to Answer filed on February 11, 2019, in *Gonzales v. Baca*, district court case number 2:16-cv-02015-RFB-CWH; a First Amended Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 filed on February 20, 2019, in *Guitron v. Baker*, district court case number 3:18-cv-00235-MMD-CBC; an Opening Brief filed on March 1, 2019, in *Wright v. LeGrand*, Ninth Circuit case number 18-16172; a Reply Brief filed on March 13, 2019, in *Bellon v. Baker*, Ninth Circuit case number 17-17005; a Reply to Opposition due April 8, 2019, in *Heusner v. Neven*, district court case number 2:14-cv-01119-RFB-GWF.

2. Additionally, counsel has been: actively involved in investigating possible *Brady* violations that occurred in state court for his client Patrick Wilcock, whom he was appointed to represent in *Wilcock v. Gentry*, district court case number 2:17-cv-02101; busy seeing clients in Reno and Indian Springs, Nevada; and has been

in and out of the office for medical treatment and recovery for injuries received in a car accident.

3. As a result of the aforementioned, Mr. Lee has been unable to complete the Petition for Writ of Certiorari. He is requesting forty-three days to file the petition so that he can have an adequate amount of time to work on the pleading while also meeting his filing deadlines in other cases that will become due over the next thirty days. Mr. Lee currently has a Certificate of Appealability due on April 15, 2019, in *Camacho v. McDaniel*, Ninth Circuit case number 19-15430; a Reply to Answer due on April 15, 2019, in *Leeds v. Baca*, district court case number 3:15-cv-00261-LRH-CBC; a Reply Brief due April 17, 2019, in *Wright v. LeGrand*, Ninth Circuit case number 18-16172; an Opposition to Motion to Dismiss due April 24, 2019, in *Melendez v. Neven*, district court case number 2:15-cv-2076-JAD-VCF; and a First Amended Petition for Writ of Habeas Corpus due April 25, 2019, in *Pineda-Laurencio v. Gittere*, district court case number 3:18-cv-00592-LRH-WGC. Additionally, Mr. Lee is scheduled to be out of the office for medical treatment and recovery from April 8–9, 2019.

4. Mr. Jones' case raises substantial constitutional issues that merit the consideration of this Court. This case concerns the proper application and scope of the new constitutional rule of retroactivity established in *Montgomery v. Louisiana*, 136 S. Ct. 718 (2016), and clarified in *Welch v. United States*, 136 S. Ct. 1257 (2016). More specifically, the question is whether the constitutionalized “substantive exception” to the *Teague* retroactivity rules that now applies to the States includes decisions narrowing the interpretation of a substantive criminal statute. After Mr. Jones' conviction became final, the Nevada Supreme Court narrowed the interpretation of the State's first-degree murder statute. However, in contrast to the large number of state courts that have granted full retroactivity to such a narrowing

interpretation, the Nevada appellate courts have imposed a full bar on the retroactivity of decisions narrowing the interpretation of a criminal statute.

5. As a result of the new constitutional rule of retroactivity, many petitioners in Nevada filed petitions raising this constitutional challenge. Rather than presenting this issue in a piecemeal fashion, counsel believes it would be most efficient to attempt to consolidate these cases into as few petitions as possible before this Court. Some cases have become final after the decision in Jones' case, *see Branham v. State*, 434 P.3d 313 (Nev. Ct. App. 2018), *petition for review denied*, February 27, 2019; while others are near completion in the Nevada appellate process as the Nevada Court of Appeals has issued an order of affirmance, *see, e.g., Chavez v. State*, Nevada Supreme Court ("N.S.C.") case number 74554; *Chaco v. State*, N.S.C. case number 74552; *Mercado v. State*, N.S.C. case number 74513; *Cooper v. State*, N.S.C. case number 74159. Thus, in addition to needing more time to draft the petition, which includes providing a 50-state survey of this area of law, counsel believes that it will conserve judicial resources for an extension to be granted.

5. Mr. Lee contacted counsel for the State, Jonathan VanBoskerck, to determine whether the State opposes the request. Mr. Lee is authorized to represent that counsel for the State does not oppose this request.

6. This application for an extension of time is not sought for the purposes of delay, but only to ensure that Mr. Jones receives competent representation in this matter.

DATED this 3rd day of April, 2019.

Respectfully submitted,

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