

NO. _____ (CAPITAL CASE)

IN THE SUPREME COURT OF THE UNITED STATES

RANDY ETHAN HALPRIN

Petitioner,

vs.

LORIE DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE,
CORRECTIONAL INSTITUTIONS DIVISION

Respondent.

**On Petition for a Writ of Certiorari to The United States Court of Appeals
for the Fifth Circuit**

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

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

To the Honorable Samuel Alito, Associate Justice, and Circuit Justice for the United States Court of Appeals for the Fifth Circuit:

1. This is a capital habeas corpus proceeding. On December 19, 2018, a panel of the Fifth Circuit issued an opinion denying a certificate of appealability and affirming the final order of a district court denying an evidentiary hearing to Mr. Halprin. *Halprin v. Davis*, 911 F.3d 247 (5th Cir. 2018). (Ex. A). Mr. Halprin filed timely petitions for rehearing and rehearing en banc, both of which were denied on January 29, 2019. (Ex. B). This Court has jurisdiction over the petition for writ of certiorari under 28 U.S. § 1254(1).

2. At present, Mr. Halprin has until April 29, 2019 to file a petition for a writ of certiorari seeking review of the Fifth Circuit's decision. *See* U.S.S.Ct.R 13.1.

3. Under Rule 13.5 and Rule 30.3, this Court may extend the time for seeking certiorari for up to sixty (60) additional days. Your Honor should grant an extension of sixty (60) days under the circumstances, up to and including June 28, 2019.

4. Counsel has begun the process of researching and preparing a petition for writ of certiorari. Due to their obligations in other capital cases, however, counsel will require additional time to prepare the petition. This request is being filed twenty six (26) days prior to the due date.

5. Counsel for Respondent has advised that she does not oppose the requested extension of time.

6. The extension is necessary because the issues to be presented in Mr. Halprin's capital case are complex and significant. They include the proper interpretation and application of this Court's precedent regarding appeals in habeas corpus cases, the relevance of cases decided before the enactment of AEDPA on whether the reasonableness of a state court decision is debatable, and whether decisions of the lower court foreclose the possibility of debate among reasonable jurists.

7. Counsel from the Capital Habeas Unit of the Office of the Federal Public Defender for the Western District of Texas (CHU) currently serves as co-counsel in this case with Mr. Paul Mansur. However, Mr. Mansur's current practice has limited his ability to assist in Mr. Halprin's case. Since the Fifth Circuit's denial of Mr. Halprin's request for relief, the CHU has been responsible for multiple filings in capital cases, including an initial habeas petition and a first amended petition—within three days of each other. *Cummings v. Davis*, No. 6:18-cv-125, ECF No. 31 (W.D. Tex. March 26, 2019) (initial Petition for Writ of Habeas Corpus); *Cade v. Davis*, No. 3:17-cv-3396, ECF No. 79 (N.D. Tex. March 28, 2019) (First Amended Petition); *Lucio v. Davis*, No. 16-70027 (5th Cir. March 4, 2019) (Appellant's Reply Brief); *Green v. Davis*, No. 4:13-cv-01899 (S.D. Tex. April 1, 2019) (Post-hearing Brief). The filings over the last ten days ran to over 400 pages.

CONCLUSION

The application for extension of time should be granted, extending Mr. Halprin's time to file a petition for writ of certiorari for sixty (60) days, until June 28, 2019.

Dated: April 3, 2019.

Respectfully submitted,

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