

NO. 18A1032 (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**

**SECOND UNOPPOSED 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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**SECOND UNOPPOSED 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.C. § 1254(1).

2. Mr. Halprin's petition was originally due by April 29, 2019. *See* U.S.S.Ct.R. 13.1.

3. On April 4, 2019, Mr. Halprin filed an Application for an Extension of Time to File a Petition for a Writ of Certiorari, seeking an additional sixty (60) days.

4. On April 9, 2019, Your Honor granted Mr. Halprin's Application, extending the time to file by thirty (30) days, until May 29, 2019.

5. Mr. Halprin now requests an additional fourteen (14 days) to file his petition.

6. 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 an additional fourteen (14) days under the circumstances, up to and including June 12, 2019.

7. Counsel has made significant progress in drafting Mr. Halprin's petition for writ of certiorari. However, at the same time, counsel has been actively investigating and preparing to file new claims based on newly discovered evidence. Those efforts have included identifying, locating, and interviewing lay witnesses in two States, providing their evidence to expert witnesses, incorporating the evidence into legal claims, and preparing the procedural arguments that must accompany the forthcoming petition. The statute of limitations, 28 U.S.C. § 2244(d)(1), for Mr. Halprin's claims expires on or after May 18, 2019. Therefore, counsel will be filing the claims by May 17, 2019. Given the press of work required for both the certiorari petition and the habeas petition, counsel must request additional time to prepare the former. This request is being filed twenty (20) days prior to the current due date.

8. Counsel for Respondent did not oppose Mr. Halprin's original request for an additional sixty (60) days, and does not oppose the current request.

9. 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, a split in the Circuits regarding the relevance of process in the application of 28 U.S.C. § 2254(d)(2), a split in the Circuits regarding the meaning of this Court's cases on mitigation evidence, and a Circuit split regarding the

relevance of cases decided before the enactment of AEDPA on whether the reasonableness of a state court decision is debatable.

CONCLUSION

For the foregoing reasons, the application for extension of time should be granted, extending Mr. Halprin's time to file a petition for writ of certiorari by fourteen (14) days, until June 12, 2019.

Dated: May 9, 2019.

Respectfully submitted,

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