

**CAPITAL CASE**

**No. 18-A-\_\_\_\_\_**

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**IN THE  
SUPREME COURT OF THE UNITED STATES**

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**HENRY LEE JONES,**

**Petitioner-Applicant,**

**v.**

**STATE OF TENNESSEE,**

**Respondent.**

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**APPLICATION FOR EXTENSION OF TIME IN WHICH TO FILE PETITION  
FOR A WRIT OF CERTIORARI**

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*To The Honorable Sonia Sotomayor, Associate Justice, and Circuit Justice*

*For The United States Court Of Appeals For The Sixth Circuit:* In this capital case, Applicant Henry Lee Jones respectfully applies for an extension of time in the amount of sixty (60) days in which to submit his petition for writ of certiorari to review the judgment of the Supreme Court of Tennessee. In support of this application, Applicant asserts as follows:

1. This is a capital direct appeal challenging Mr. Jones's convictions and death sentences.

2. Applicant presently has until April 30, 2019, to file a petition for writ of certiorari. *See U.S.S.Ct.R. 13.1.*

3. Under Rule 13.5, this Court may extend the time for seeking certiorari for up to sixty (60) additional days. Where this motion is being filed more than ten days before the petition is due, and Petitioner can show good cause, Your Honor should grant the extension.

4. On January 30, 2019, the Supreme Court of Tennessee entered its judgment and opinion in this matter. The opinion of the Supreme Court is reported at *State v. Jones*, 568 S.W.3d 101 (Tenn. 2019). The petition for a writ of certiorari in the instant case accordingly is due by April 30, 2019. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

5. The issues in Mr. Jones's appeal are unique and legally complex. This case arises from the August 22, 2003 deaths of two people. There was no DNA or forensic evidence at the scene linking Mr. Jones to the murders. An accused accomplice, Tevarus Young, pled guilty to facilitation and testified for the State. Mr. Jones, who was represented by appointed counsel, was convicted and sentenced to death in a trial which, on direct appeal, the Supreme Court of Tennessee found to be unfair. *State v. Jones*, 450 S.W.3d 866 (Tenn. 2014) (finding that the trial court erroneously admitted evidence of other bad acts and ordering a new trial).

6. On retrial in 2015, Mr. Jones was permitted to represent himself and

dismiss appointed counsel. *State v. Jones*, 568 S.W.3d 101, 111 (Tenn. 2019). An attorney remained present in the courtroom as “resource counsel.” *Id.* Mr. Jones represented himself throughout the trial until the State presented its last witness at the innocence/guilt trial—a medical examiner who had not conducted either of the autopsies. *Id.*, at 120–21. “Resource counsel” did not object to the testimony and did not cross-examine the medical examiner regarding injuries to the victims or cause of death. *Id.*, at 121. Mr. Jones was convicted and, after having been twice denied the services of a mitigation expert, he waived the right to present mitigating evidence and was sentenced to death. *Id.*, at 123.

7. On direct appeal, “resource counsel” raised several issues, among them: 1) the trial court erred in permitting Mr. Jones to waive his right to counsel in this capital case; 2) the trial court, in violation of the Sixth Amendment right to confrontation, erred in admitting the previous testimony of “unavailable” witness Tevarus Young who had cut a plea bargain for his role in the charged offenses and was the key witness in support of Mr. Jones convictions and death sentences that were later vacated due the unfair trial; 3) the trial court’s instruction in regard to the circumstances of Young’s unavailability was improper; 4) the trial court erred in allowing the portion of Young’s testimony in which he alleged that Mr. Jones raped him was improperly admitted; 5) the evidence was insufficient to sustain his convictions; and 6) the trial court erred in denying the services of a mitigation

expert. and therefore depriving Mr. Jones of his constitutionally protected right to present mitigating evidence.

8. Mr. Jones has requested the Office of the Post-Conviction Defender to assist him in preparing a petition for writ of certiorari. As the Office has no previous relationship with Mr. Jones, undersigned counsel needs time to meet with him, obtain and review relevant pleadings in the direct appeal litigation, and help construct a petition. Accordingly, Mr. Jones through undersigned counsel requests an additional sixty (60) days to prepare the petition.

9. Your Honor has previously granted an application for extension of time in a capital case when, as here, petitioners presented substantial issues regarding the propriety of the state court proceedings. *See Abu-Ali Abdur'Rahman, et al., Petitioners v. Tony Parker, Commissioner, Tennessee Department of Corrections, et al.* (U.S. No. 18A709) (January 9, 2019) (Sotomayor, J.) (granting 60-day extension of time to file petition in lethal injection challenge).

## **CONCLUSION**

For the reasons set forth above, Henry Lee Jones moves this Honorable Court to extend by sixty (60) days the time in which to submit his petition for a writ of certiorari in this matter.

Respectfully submitted,

/s/ Kelly A. Gleason  
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#### **CERTIFICATE OF SERVICE**

I, Kelly A. Gleason, hereby certify that a true and correct copy of the foregoing document was electronically filed and sent to the following via email on this the 18<sup>th</sup> day of April, 2019, to:

James E. Gaylord  
Senior Counsel  
Criminal Justice Division  
P.O. Box 20207  
Nashville, Tennessee 37202-0207

/s/ Kelly A. Gleason  
Kelly A. Gleason  
Assistant Post-Conviction Defender