

NO. _____
CAPITAL CASE

IN THE SUPREME COURT OF THE UNITED STATES

GILBERT POSTELLE, Petitioner,

v.

MIKE CARPENTER, Interim Warden,
Oklahoma State Penitentiary, Respondent.

On Petition for Writ of Certiorari to the
United States Court of Appeals for the Tenth Circuit

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

Robert A. Nance, OBA No. 6581
Counsel of Record
RIGGS, ABNEY, NEAL, TURPEN,
ORBISON & LEWIS
528 N.W. 12th Street
Oklahoma City, OK 73103
(405) 843-9909
rnance@riggsabney.com

JOHN T. CARLSON
1200 Pearl Street,
Suite 314
Boulder, Colorado 80302
(303) 323-1930
jtcarlson@gmail.com

*Counsel for Petitioner
Gilbert Postelle*

To the Honorable Sonia Sotomayor, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Tenth Circuit:

I represent Petitioner Gilbert Postelle, sentenced to death by the state courts of Oklahoma. I ask for a 60-day extension of time, to and including March 25, 2019, by which to file his petition for a writ of certiorari. In support of this request, I state:

1. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1). Petitioner Gilbert Postelle respectfully applies pursuant to this Court's Rule 13(5) for an extension of time within which to file his Petition for Writ of Certiorari. The Petition is currently due on January 24, 2019. Mr. Postelle has ninety days from October 26, 2018 to petition for a writ of certiorari. Sup. Ct. R. 13.3. Ninety days from October 26, 2018 is January 24, 2019. This application is being filed at least ten days before January 24.

2. The Court of Appeals opinion to be reviewed was issued on August 27, 2018. *See Postelle v. Carpenter* (No. 16-6290). A copy of this opinion is an attachment to this application. Petitioner sought rehearing and rehearing *en banc* which were denied by order on October 26, 2018. A copy of this order is also attached to this application.

3. An extension of time of sixty days is justified because undersigned counsel Nance, appointed pursuant to the Criminal Justice Act in both the District Court and the Court of Appeals, has a busy litigation practice including representing the Oklahoma Insurance Commissioner in a receivership action removed to federal court in Oklahoma City and later bifurcated for one defendant into an arbitration action. Discovery is ongoing in both the arbitration proceeding and the federal action. The federal court action is scheduled to be tried in July 2019, while the arbitration matter will be heard in October 2019. Counsel has another complex jury matter in state court to be pretried in May and tried thereafter in which discovery is currently proceeding. Counsel has additional other responsibilities, including serving as general counsel for the Oklahoma Housing Finance Agency, which place serious demands on his time. Counsel Carlson, also appointed before both the District Court and the Court of Appeals, has recently left the Federal Public Defender's office but has been appointed on a limited basis to assist with certiorari. The press and conduct of other business justifies an extension of time of sixty days from and after January 24, 2019.

4. The extension of time sought by this application is for sixty days, to and including March 25, 2019.

WHEREFORE, on behalf of Gilbert Postelle I ask that an order be entered extending the time in which to petition for certiorari by sixty days, to and including March 25, 2019.

Respectfully submitted,

Robert A. Nance, OBA No. 6581
Counsel of Record
RIGGS, ABNEY, NEAL, TURPEN,
ORBISON & LEWIS
528 N.W. 12th Street
Oklahoma City, OK 73103
(405) 843-9909
rnance@riggsabney.com

JOHN T. CARLSON
1200 Pearl Street,
Suite 314
Boulder, Colorado 80302
(303) 323-1930
jtcarlson@gmail.com

Counsel for Petitioner
Gilbert Postelle

January 3, 2019