

DOCKET NO. _____
IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 2018

WILLIAM REAVES,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

**APPLICATION FOR SIXTY (60) DAY EXTENSION OF TIME IN WHICH TO FILE
PETITION FOR WRIT OF CERTIORARI TO THE FLORIDA SUPREME COURT**

(DEATH PENALTY CASE)

COMES NOW THE PETITIONER, **WILLIAM REAVES**, by and through undersigned counsel, and pursuant to 28 U.S.C. § 2101(d) and Supreme Court Rules 13.5 and 30.2, respectfully requests from the Honorable Circuit Justice for the Eleventh Circuit, Clarence Thomas, an extension of time of sixty (60) days within which to file his Petition for Writ of Certiorari to the Florida Supreme Court. In support of his request, Petitioner, through counsel, states as follows:

1. Petitioner is a death-sentenced inmate in the custody of the State of Florida. This case involves an appeal from the decision of the Florida Supreme Court.
2. This Court's jurisdiction rests on 28 U.S.C. § 1257(a).
3. In 1987 Petitioner was first convicted of the murder of Deputy Richard Raczkoski and sentenced to death in the Circuit Court of the Nineteenth Judicial

Circuit In and For Indian River County, Florida. After a retrial in 1992 he was again convicted by a jury of one count of first-degree murder . The jury then recommended a sentence of death by a ten (10) to two (2) vote, and the trial judge imposed a death sentence. Mr. Reaves's convictions and sentences, including his sentence of death, were affirmed on direct appeal. *Reaves v. State*, 639 So. 2d 1 (Fla. 1994).

4. An initial postconviction motion was filed in state circuit court on February 15, 1996, and subsequently amended. After the circuit court summarily denied the motion the Florida Supreme Court granted a limited evidentiary hearing on trial counsel's performance related to the investigation and use of a voluntary intoxication defense and several related expert areas. *Reaves v. State*, 826 So. 2d 932 (Fla. 2002). A state habeas petition was denied. *Reaves v. Crosby*, 837 So. 2d 396 (Fla. 2003). Following the hearing and denial of relief in the circuit court, the denial was affirmed in *Reaves v. State*, 942 So. 2d 874 (Fla. 2006). Additional state postconviction litigation also resulted in summary denial in state circuit court and the Florida Supreme Court again affirmed. See *Reaves v. State*, 27 So. 3d 661 (Fla. 2009).

5. On February 16, 2010 Petitioner filed a federal habeas petition that was docketed in the United States District Court for the Southern District of Florida as Case No. 2:10-cv-14046-DMM. On August 15, 2011 the district court entered an order granting in part and denying in part Mr. Reaves's Petition for a Writ of Habeas Corpus and staying evidentiary development until further notice from the court. The grant of relief was based on the claim that trial counsel was ineffective in failing to

pursue a voluntary intoxication defense.

9. On June 23, 2012 the State of Florida appealed the district court's grant of habeas relief. On May 30, 2013 the Court of Appeals reversed the district court grant of relief but remanded for an evidentiary hearing on penalty phase ineffective assistance. *Reaves v. Sec. Florida DOC*, 717 F. 3d 886 (11th Cir. 2013). The opinion reversed the district court's denial of habeas relief as to the guilt phase ineffectiveness claims, but remanded for further proceedings on Reaves' unaddressed penalty phase ineffective assistance claim.

10. Following an evidentiary hearing in the district court and a subsequent grant of penalty phase relief, the State again entered an appeal. On September 28, 2017, the Court of Appeals again reversed the district court's grant of habeas relief. *Reaves v. Sec. Florida DOC*, 872 F. 3d 1137 (11th Cir. 2017). Petitioner filed a Petition for Panel Rehearing on October 18, 2017. On November 6, 2017 the Eleventh Circuit panel entered an Order denying the Petition for Panel Rehearing.

11. Petitioner petitioned for certiorari in this Court regarding the Eleventh Circuit denial of his habeas petition. Certiorari was denied by this Court in Case No. 17-8428 on June 25, 2018. *See Reaves v. Jones*, -- S.Ct. --, 2018 WL 1718032 (Mem).

12. The instant case involves the decision of the Florida Supreme Court entered on May 2, 2018 denying Mr. Reaves' claim that his sentence of death is unconstitutional in light of the decisions in *Hurst v. Florida*, 136 S. Ct. 616 (2016) and *Hurst v. State*, 202 So. 3d 40 (2016), *cert. denied*, 137 S. Ct. 2161 (2017). *See Reaves v. State*, 241 So. 3d 63 (Fla. 2018). (Attachment A).

13. Neither Mr. Reaves nor Respondent filed a motion for rehearing with the Florida Supreme Court. Mr. Reaves' time to petition for certiorari in this Court regarding the Florida Supreme Court's denial of relief expires on Tuesday, July 28, 2018. This application for a sixty (60) day extension is being filed ten (10) or more days before that date. Undersigned counsel shows the following good cause in support of this request.

14. Undersigned counsel serves as Litigation Director in the CCRC South office. This office is responsible litigating some 50 capital cases in both state postconviction and federal habeas corpus proceedings. Counsel has numerous briefs, petitions, and motions due and pending in various other capital cases in the coming weeks. As a result, counsel has not been able to prepare a proper petition for a writ of certiorari concerning the issues in Petitioner's case.

WHEREFORE, Petitioner, through his undersigned counsel, respectfully requests an extension of time of sixty (60) days, from the due date of July 31, 2018 until September 29, 2018, within which to file the Petition for Writ of Certiorari to the Florida Supreme Court in the above-styled case.

Respectfully submitted,

/s/ William M. Hennis III
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Litigation Director
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Counsel of Record