



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

May 6, 2020

Mr. Scott S. Harris, Clerk
The Supreme Court of the United States
One First Street, NE
Washington, DC 20543

RE: *Tommy Sharp v. Roderick Smith*, Case No. 19-1106 (capital case)

Dear Mr. Harris:

On this day, May 6, 2020, counsel for Respondent Roderick Smith, Ms. Emma Rolls, filed with this Court a letter seeking a *second* extension to file the Brief in Opposition in this case. Ms. Rolls based the request on “complicated working conditions” due to COVID-19, pursuant to this Court’s March 19, 2020, Order. Contrary to that Order, however, Ms. Rolls neither sought nor indicated the undersigned’s position on her extension request. *See* March 19, 2020, Order (“Such motions should indicate whether the opposing party has an objection.”). Accordingly, Petitioner Tommy Sharp hereby submits this letter to communicate his position. Petitioner Sharp objects to any further extension for Respondent Smith’s filing of his Brief in Opposition for the following reasons.

As shown in the Petition for Writ of Certiorari, the family members of Roderick Smith’s victims have been waiting for more than twenty-six years for justice to be carried out in this capital case. Accordingly, Petitioner Sharp has sought to minimize delay in the resolution of this certiorari appeal seeking review of the decision of the Tenth Circuit granting habeas relief as to Respondent Smith’s death sentences. In particular, Petitioner Sharp sought no extension for the filing of his Petition for Writ of Certiorari, and timely filed same on March 2, 2020. On that date, Petitioner Sharp both mailed and e-mailed the Petition to Ms. Rolls.

Respondent Smith's Brief in Opposition was originally due April 9, 2020. Respondent Smith already requested, and was granted, an extension of forty-five days in which to file the Brief in Opposition, giving him a new deadline of May 26, 2020. Respondent Smith now requests a second extension, asking for an additional thirty days, or until June 25, 2020, in which to file his Brief in Opposition. With Respondent Smith's original extension request, he has already received eighty-five days in which to write and file the Brief in Opposition. Granting this second extension request would give Respondent Smith an unprecedented *115 days*, or nearly four months, in which to file the Brief in Opposition.

Notably, Respondent Smith has himself previously, and repeatedly, opposed further delays in this case. After the Tenth Circuit denied Petitioner Sharp's Petition for Panel and/or En Banc Rehearing, Respondent Smith, through Ms. Rolls, objected to Petitioner Sharp's motion to stay the mandate so that Petitioner could seek certiorari review from this Court. When the federal district court subsequently ordered the State to re-sentence Respondent Smith within 120 days, and Petitioner Sharp moved to have the deadline run from the disposition of a certiorari petition, Ms. Rolls filed a lengthy written objection.

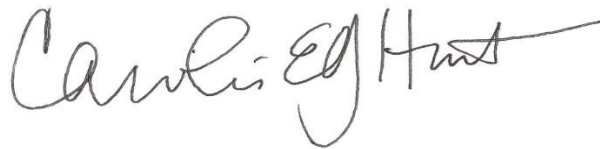
Despite previously opposing delays in this case, Respondent Smith now seeks an extension request that would mean that Petitioner Sharp's Petition for Writ of Certiorari will be conferenced on October 1, 2020, instead of in late June 2020, per this Court's distribution schedule. Thus, this amounts to a delay of months, not simply thirty days, and it is unjust to the family of Smith's victims, and unjust to the State of Oklahoma, to allow same.

Finally, Respondent Smith has cited to no new circumstances from his previous extension request to justify any further time. Both Ms. Rolls's prior request and current request cite the exact same four matters that she claims necessitate an extension: (1) her role as supervisor; (2) her participation in litigating a challenge to the newly released lethal injection protocol for Oklahoma capital inmates; (3) her position as co-counsel on a certiorari petition currently due May 25, 2020, in *Harmon v. Sharp*, Supreme Court Case No. 19A1011; and (4) her position as lead attorney in *Tommy Sharp v. Jimmy Harris*, Supreme Court Case No. 19-1105, wherein the Brief in Opposition is due on May 11, 2020. Thus, the prior forty-five-day extension granted Respondent Smith already accounted for all of the present matters she alleges justify an extension. Furthermore, the referenced lethal injection protocol involves at least eight different plaintiffs' attorneys. Indeed, a court minute for a motion hearing held in that litigation just yesterday

reflects that Ms. Rolls was not among the eight attorneys who appeared on behalf of the plaintiffs. As to *Harris* and *Harmon*, while Ms. Rolls states that the Brief in Opposition in *Harris* “will be filed on Monday, May 11, 2020,” she states only that her Certiorari Petition in *Harmon* is “currently due May 25, 2020.” Ms. Rolls does not state whether she is planning to seek another extension in *Harmon*. Ms. Rolls also notes that her employer has “implemented a telework policy, pursuant to W.D. Okla. General Order 20-5 . . . filed March 13, 2020,” but her prior extension request was filed after that date, on March 18, 2020. She further fails to explain why telework necessitates an additional thirty days to file a Brief in Opposition in this case. She claims that this Court “recognized” teleworking difficulties “in its March 19, 2020 Order, in which the Court automatically extended the deadlines for Petitions for Writs of Certiorari by 150 days.” This is inaccurate. This Court’s Order extended the deadline for petitioning for certiorari to 150 days, from 90 days, but did not extend such deadlines by 150 days.

For all of the foregoing reasons, Petitioner Sharp respectfully states his objection to Respondent Smith’s request for a second extension in which to file his Brief in Opposition.

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