

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

SEAN FREDERIK FRANKE,

Petitioner,

v.

MARK S. INCH,

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,

Respondent.

**ON PETITION FOR WRIT OF CERTIORARI TO THE FLORIDA FIRST
DISTRICT COURT OF APPEAL**

**APPLICATION FOR EXTENSION OF TIME TO FILE PETITION FOR WRIT OF
CERTIORARI**

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Counsel for the Petitioner

To the Honorable Clarence Thomas, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Eleventh Circuit:

Introduction

Pursuant to this Court's Rule 13.5, the Petitioner, Sean Frederik Franke, respectfully requests a sixty-day extension of time within which to file a petition for a writ of certiorari in this Court, to and including July 22, 2019.

Jurisdiction

The direct appeal opinion of the Florida First District Court of Appeal affirming the Petitioner's conviction was entered on February 20, 2019. Unless extended, the time within which to file a petition for a writ of certiorari would expire on May 21, 2019.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257. A copy of the opinion of the Florida First District Court of Appeal is included in the appendix to this motion.

Argument

The Petitioner will be seeking certiorari review of three issues concerning whether the Petitioner's Fifth and Fourteenth Amendment right to due process was violated: 1) the trial court's denial of the Petitioner's motion to suppress; 2) the trial court's refusal to limit the testimony of a State expert; and 3) the trial court's permission of the State to present an expert witness for the first time during rebuttal.

Unfortunately undersigned counsel's schedule requires him to seek an extension of time in this case. In particular, in the last six weeks, in addition to filing numerous briefs and pleadings, undersigned counsel has participated in four oral arguments before Florida appellate courts and one postconviction evidentiary hearing before Florida circuit courts – an unusually high number for undersigned counsel to attend within a six-week period.¹ Additionally, in the next three weeks, undersigned counsel will be out of his office attending three oral arguments scheduled before Florida appellate courts.²

Therefore, the Petitioner requests an extension of sixty days to file the petition for a writ of certiorari. No party will be prejudiced by the granting of a sixty-day extension in this case.

Accordingly, the Petitioner respectfully requests that an order be entered extending the time to petition for writ of certiorari by sixty days.

¹ Undersigned counsel has appeared at the following oral arguments: (1) *Thorne v. State*, case number 1D17-4242, pending before the Florida First District Court of Appeal; (2) *Bullard v. State*, case number 1D17-4564, pending before the Florida First District Court of Appeal; (3) *Ribes v. State*, case number 2D17-1320, pending before the Florida Second District Court of Appeal; and (4) *Russell v. State*, case number 2D18-0187, pending before the Florida Second District Court of Appeal. Undersigned counsel has also appeared at the postconviction evidentiary hearing in *State v. MacKendrick*, case number 2007-CF-44, pending before the Florida Second Judicial Circuit Court (Liberty County).

² Undersigned counsel is scheduled to appear at the following oral arguments: (1) *Kiley v. State*, case number 5D17-3314, pending before the Florida Fifth District Court of Appeal, (2) *Summers v. State*, case number 2D17-3134, pending before the Florida Second District Court of Appeal, and (3) *Altschuler v. State*, case number 5D17-3937, pending before the Florida Fifth District Court of Appeal.

Respectfully submitted,

/s/ Michael Ufferman
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CERTIFICATE OF SERVICE

I, Michael Ufferman, a member of the Bar of this Court, hereby certify that on the 18th day of April, 2019, a copy of this Application For Extension of Time To File A Petition For A Writ Of Certiorari in the above-entitled case was mailed, first class postage prepaid, to Assistant Attorney General Benjamin Hoffman, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32333-1050 (counsel for the Respondent herein). I further certify that all parties required to be served have been served.

/s/ Michael Ufferman
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**APPENDIX TO APPLICATION FOR EXTENSION OF TIME TO FILE PETITION
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FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D17-979

SEAN FREDERIK FRANKE,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Duval County.
Steven B. Whittington, Judge.

February 20, 2019

PER CURIAM.

AFFIRMED.

MAKAR, WINOKUR, and M.K. THOMAS, JJ., concur.

*Not final until disposition of any timely and
authorized motion under Fla. R. App. P. 9.330 or
9.331.*

Michael Ufferman of Michael Ufferman Law Firm, P.A.,
Tallahassee, for Appellant.

Ashley B. Moody, Attorney General, and Benjamin Louis
Hoffman, Assistant Attorney General, Tallahassee, for Appellee.